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AUTHOR	Mogin, Bert
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ABSTRACT

This study was designed to examine the role of State Educational Agencies (SEAs) in desegregation activity. It examines the nature of SEA activity and identifies common elements important to effective programs. It also assesses whether these activities and elements could serve as models for other states, and determines the need and desire of the states for changes in their relationship to the federal government. The study included a legal review and analysis of recent court decisions that indicate SEA responsibility for desegregation. Findings indicate that of the 19 states contacted, only 9 can be considered as having active desegregation programs in the sense that they try to take positive or self-initiated steps at the SEA level to eliminate segregation at the LEA level. Most of the states desired a closer partnership with the federal government, including a greater voice in administration of desegregation assistance programs, especially in fund allocation and monitoring activities. Furthermore, the study found that most of the large LEAs would not oppose SEA involvement in desegregation matters. A policy implication of this study is that current state role and behavior are unlikely to change in a significant way without prodding by the courts, Congress, or the federal agencies. (Author/AM)

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THE STATE ROLE IN SCHOOL DESEGREGATION

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A Research Memorandum is a working paper that presents the results of work in progress. The purpose of the Research Memorandum is to invite comment on research in progress. It is a comprehensive treatment of a single research area or of a facet of a research area within a larger field of study. The Memorandum presents the background, objectives, scope, summary, and conclusions, as well as method and approach, in a condensed form. Since it presents views and conclusions drawn during the progress of research activity, it may be expanded or modified in the light of further research.

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"An equal educational opportunity is not guaranteed by simply mixing majority and minority students. After the physical reassignment of students has been accomplished, it is essential that tracking systems which re-segregate students within the classrooms of ostensibly desegregated schools be avoided, that teachers learn to effectively communicate with both minority and non-minority students, and that bilingual education be provided for students for whom English is a second language. Schools need to provide enrichment programs and remedial instruction in the basic skills to compensate for the cultural deprivation and racial isolation to which some of their students have been subjected. Human relations programs are often needed to foster a proper climate for education, one which is marked by mutual respect and understanding between individuals and groups. Especially important in this regard is the need to integrate some kind of ethnic education into the curricular and non-curricular life of the schools.

In some cases affirmative action is needed to ensure that the faculty, like the student body, is representative of the racial and cultural diversity of American society. And almost without exception there is a need to encourage greater participation of parents in the life of the school and to enlist support on the part of the community at large for the school district's desegregation plan and the special educational activities which follow in its wake."

Statement of Purpose:
Application by Illinois SEA
for CRA Title IV Funds for FY 74-75

EXECUTIVE SUMMARY

Since the Brown decision by the Supreme Court in 1954, the federal courts and the federal agencies have carried the major burden in effecting school desegregation. Despite the fact that the states have the principal responsibility for providing public education, their role in desegregation matters has been minimal. The interaction in eliminating illegal segregation has been between the courts and federal agencies on one hand and the local education agencies (LEAs) on the other. Some recent events, however, have highlighted state involvement, giving rise to two policy questions:

(1) What should the role of the state education agencies (SEAs) be in effecting school desegregation?

(2) What should be the relationship between the federal government and the SEAs in desegregation matters, and what changes, if any, need to be considered?

The study was designed as a limited examination of SEA desegregation activity, focusing on those states identified as having active desegregation programs. It attempted to examine the nature of their activity, identify common elements important to effective programs, assess whether these activities and elements could serve as models for other states, and determine the need and desire of the states for changes in their relationship to the federal government.

Nineteen states were initially identified as having active state desegregation programs and/or problems involving the state education agency. Seven were selected for visits because of their strong commitment to desegregation and/or their implementation of a unique program: Illinois, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, and Wisconsin. The other 12 were interviewed at length by telephone: California, Connecticut, Delaware, Florida, Indiana, Iowa, Kentucky, Michigan, Minnesota, Ohio, South Carolina, and Texas.

In addition to the site visits and telephone interviews, the study included a brief questionnaire sent to the 25 largest LEAs, asking their views on and experiences with state help in desegregation activities. The study also included a legal review and analysis of recent court decisions that indicate SEA responsibility for desegregation.

Findings and Conclusions

Role of the SEAs

Of the 19 states visited or called, only 9 can be considered as having active desegregation programs in the sense that they try to take positive or self-initiated steps at the SEA level to eliminate segregation at the LEA level.

Of the nine states with active programs, however, only five have authority to identify schools with excessive or out-of-balance minority enrollments, to initiate desegregation actions, and to take enforcement steps to compel compliance. These five states--Illinois, Massachusetts, New Jersey, New York, and Pennsylvania--are the only states considered to have a comprehensive state role; yet even these states are not free from problems, political pressures, and citizen resistance.

Those states that already have enforcement authority are generally satisfied with their state role. Most of the other state commissioners and their staffs desire a strengthened state role in the education desegregation process to include a strong commitment by the state board of education and/or a state desegregation statute, more staff and funding resources, and authority to initiate and enforce desegregation after identifying segregated schools. It is clear, however, that without the intervention of the courts or federal government this change in state role is not likely to occur.

Changes in Federal-State Relationships

With respect to changes desired in the relationship between the federal government and the states in matters of desegregation enforcement, most of the states desire a closer partnership with the federal government, including a greater voice in administration of desegregation assistance programs, especially in fund allocation and monitoring activities. They want federal definitions, standards, and criteria for integrated education to be established, in order to provide a basis and support for state activities and to strengthen the hand of the SEA against resistance or apathy toward further desegregation. They also want more active and consistent enforcement by the federal government against violations, and want to be a partner in the enforcement actions. Most of the SEAs also felt that the statutory purposes and uses of the Emergency School Assistance Act (ESAA) and Title IV of the Civil Rights Act (CRA) need to be reexamined in light of today's conditions and needs.

LEA Opinions Regarding State Roles

The questionnaire revealed that most of the large LEAs would not oppose SEA involvement in desegregation matters, with over half of those responding actively welcoming SEA assistance. Since most of the remaining desegregation problems are in the large cities, their willingness to accept SEA assistance is a significant finding.

Legal Trends

Three main trends seem to be emerging: (1) Where states can be shown to be a party, by acts of either omission or commission, to intentional discrimination in the schools, the courts will order them to participate in the remedies. (2) Where states accept a responsibility, through either enactment of a state law or passage of a resolution by a state agency to end discrimination in the schools, the courts will require them to fulfill that responsibility. (3) Federal courts will not order interdistrict remedies unless each district involved can be found to have intentionally taken segregatory actions with interdistrict effects. This last trend has acted to restrict desegregation efforts in many school districts. However, states with enabling legislation may, on their own initiative, merge districts, change school boundaries, order interdistrict transfers, or take other steps to end segregation in their schools without court order.

Policy Implications and Recommendations

The study has several implications for policy purposes:

- Except for the handful of leaders already identified, states seem unlikely to voluntarily pursue desegregation on their own. Desegregation issues are politically sensitive and few political leaders at the state level appear willing to press them. Therefore, the current state role and behavior are unlikely to change in any significant way without prodding by the courts, the Congress, or the federal agencies.
- If the state role is to be enlarged, the federal government needs to provide the impetus in the form of requirements (laws, rules, and regulations), financial incentives, and penalties for noncompliance. Federal programs without teeth, which rely on voluntary actions by the states or provide financial incentives without accompanying federal requirements for state action, would probably not create any significant change.
- Federal-state relationships and state behavior can be changed by making the states partners in further desegregation efforts. However, because the states differ in many ways, including their resources for, commitment to, and status of desegregation, a variety of approaches would be necessary:

  (1) About 10 states have such small or scattered minority populations that they do not have major race discrimination problems and do not require federal attention.

  (2) States that have demonstrated leadership and have commitment, laws, and enforcement authority could be further encouraged and given financial rewards for their efforts. They could be made full partners with the federal government in identifying segregatory situations and in initiating and carrying out further desegregation activities.

  (3) States that have demonstrated a commitment to desegregation and have taken some voluntary action but have not given their SEAs statutory authority to initiate and enforce desegregation could be encouraged to move further through use of federal standards and financial incentives.

  (4) The rest of the states, approximately 30, will need to be pushed harder by the federal government to achieve further desegregation. First, the federal government (HEW) should provide definitions, standards, criteria, and guidelines for desegregation and quality integrated education. Second, the states could be required to submit acceptable desegregation plans which include identification of minority-isolated schools and specification of time-phased SEA/LEA efforts to desegregate them. Federal grants (CRA IV funds at a minimum) should be tied to approval of the plans. In the absence or disapproval of such plans, there could be a

further penalty, such as the withholding of other federal funds. A mechanism should also be established to financially reward those states making the greatest effort, such as a share of ESAA funds for state use. (These actions would require changes in CRA IV and ESAA legislation.)

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ACKNOWLEDGMENTS

When the study began, little information had been recorded about state activity in school desegregation matters. There was information about individual states and there were numerous impressions by knowledgeable persons, but a composite picture had not been drawn. We owe special thanks to those whose counsel helped in the early stages of the study: Fritz Edelstein and Mary von Euler of NIE; Herman Goldberg and Robert York of USOE; Elizabeth Reisner, ASE; and Meyer Weinberg, Editor, Integrated Education. Gary Orfield and William Taylor also provided perceptive insights during the design phase. Elizabeth Reisner and Herman Goldberg provided invaluable help a second time in critiquing the draft of the report.

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I INTRODUCTION

A. Background

In Brown v. Board of Education (1954), the U.S. Supreme Court ruled that school systems segregated by law violated the 14th Amendment of the Constitution. Most school systems affected by the Brown decision responded by developing "freedom of choice" remedies, allowing students to enroll in any school in their district regardless of race. In Green v. New Kent County School Board (1968), the Supreme Court made it clear that "freedom of choice" plans were inadequate remedies and that school authorities had an "affirmative duty" to take all necessary steps to eliminate racial discrimination in schools. As a result of numerous court cases following the Green decision, the South went through a period often described as "massive integration."

In the first of the northern and western school desegregation cases to reach the Supreme Court, Keyes v. School District No. 1, Denver, Colorado (1973), the Court addressed the issue of school segregation where pupils had not been segregated by statutory mandate. The Court ruled that "purpose and intent" to segregate was a key element in identifying illegal segregation. There have been many court cases in northern, middle western, and western states since Keyes.

The Executive Branch of the federal government was first assigned responsibilities for school desegregation under the Civil Rights Act of 1964 (CRA). Title IV of the Act provided for grants and technical assistance by the Commissioner of Education to assist in the desegregation of public schools and also empowered the Attorney General to act on complaints. Title VI reinforced the principle of nondiscrimination on the basis of race, color, or national origin in all federally assisted programs, provided for the establishment of appropriate rules and regulations to implement nondiscrimination requirements, and provided authority to withhold or terminate federal assistance where discrimination was found to exist.

The next important statutory development was the passage of the Emergency School Aid Act (ESAA) in June 1972 to provide direct financial assistance to local education agencies (LEAs) seeking to reduce, eliminate, or prevent minority group isolation. By legislative intent, the states were not made part of the process.

In these actions and others, the federal government and the federal courts have played the major role over the last two decades in bringing about school desegregation. Despite the fact that the states have the principal responsibility for providing public education, their role in desegregation matters has been minimal, and for the most part the federal legislation bypasses them. Instead, the interaction has been principally between the courts or federal agencies on the one hand and the local school districts on the other. The one exception to this trend results from a provision of Title IV of the Civil Rights Act, which grants funds to state education agencies (SEAs), among others, to provide technical assistance to desegregating school districts. Forty-four such grants were made to SEAs in FY 1976, ranging from $40,000 to $330,000. This is not a significant exception to the larger picture, however, since under regulations the SEAs must wait to be asked for assistance by the local school districts; as a result, the activity of many SEA units funded by CRA IV has been relatively low.

A handful of states have established their own commitment and voluntarily pursued desegregated education; most of the others have taken an inactive or passive stance, considering school desegregation a matter of local, not state, concern. In these states, the SEA neither has been assigned the responsibility or the authority to intervene, nor has sought such authority actively.

A number of changes now seem to be taking place in the national picture. Among these are the following:

(1) Federal court decisions in Detroit, Buffalo, Cleveland, Wilmington, Indianapolis, Louisville, and St. Louis County

and state court decisions in Los Angeles have in one way or another made state agencies a party to local desegregation. In several of these cases, state officials have been found equally culpable with local officials for segregatory actions, and state agencies have been assigned a role in the remedies.

(2) Interdistrict or metropolitan remedies are increasingly being proposed and considered as a way to desegregate urban areas with primarily minority pupil enrollments. Since these remedies involve more than one school district (normally those in a central city and its surrounding suburbs), the SEA, as a key funding agency and as the next higher coordinating authority, is inevitably involved.

(3) Various incentive plans for voluntary transfer of students within and across district lines have been initiated. In these plans, the SEA not only pays the direct costs involved but also may provide some incentive funds. This approach also involves the establishment of specialty and magnet schools to encourage students to transfer. The aim of these plans is both to reduce racial isolation and to provide quality education.

(4) In the last Congress, "The National Educational Opportunities Act of 1975," H.R. 10146, known as the Preyer Bill, was introduced and hearings were held. It proposed that the states play a greater role in the desegregation process. Basically, the Preyer Bill set forth a much closer partnership between the federal government and the states in order to further school desegregation. Although the bill was not enacted, it did attract considerable attention and support during the hearings. Most of the objections to the bill centered on its mechanics and on the busing controversy, not on the concept of federal-state partnership. A revised version of the bill is to be resubmitted in this Congress, and Senator Pearson has already submitted a similar bill.

As a consequence of these changes, it was considered timely and important to examine what the SEAs are doing currently, to assess their desire and potential for a larger role, and to explore the need for changing federal-state relationships. The policy questions can be stated as:

- What should be the role of the SEAs in effecting school desegregation?
- What changes, if any, should be made in the relationship between the federal government and the SEAs in desegregation matters?

B. Study Design

The study was conceived as a brief and limited examination of SEA desegregation activity. Bilingual, handicapped, and sex discrimination activities were not examined. No attempt was made to design a comprehensive study embracing all states, or to select a random sample from which to generalize. Instead, we decided to focus on those states identified as having active state desegregation programs, to examine the nature of their activity, to identify common elements important to effective programs, to determine whether these activities and elements could serve as models for other states, and to assess the need and desire for changes in their pertinent relationships with the federal government. In short, our goal was to examine the best cases as examples of what might be feasible nationwide.

The initial steps involved consultation with recognized experts* to aid in identifying the principal states with active state desegregation programs and/or problems involving the state education agencies. Nineteen states were identified: California, Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, and Wisconsin.

Criteria were then established for identifying those states considered to have the most effective desegregation programs. These criteria were:

- A strong commitment to desegregation on the part of the SEA and the chief state school officer.
- A state law and/or state board of education resolution requiring desegregation.

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*The desegregation experts included Herman Goldberg, Associate Commissioner for Equal Educational Opportunity Programs, USOE; Robert York, Evaluation Specialist, USOE; Gary Orfield, Brookings Institution; Meyer Weinberg, Editor, Integrated Education; Fritz Edelstein, Consultant to NIE and ECS; Mary Von Euler, Attorney and Fellow, NIE; Prof. William Taylor, Center for National Policy Review, Catholic University; Elizabeth Reisner, Office of Policy Development, ASE; and several state EEO officials.

- SEA authority to initiate and enforce desegregation actions.
- SEA-sponsored programs and activities involving local administrators.

Although it would have been desirable to visit all 19 states and obtain detailed information on their desegregation activities, neither time nor resources permitted. We decided, therefore, to visit seven states and conduct lengthy telephone interviews with the rest. The seven selected for visits, and the reasons for selecting them, were:

(1) Illinois, Massachusetts, and New Jersey: state laws against segregated schooling, the power to initiate and enforce desegregation actions, and numerous desegregation-related programs and activities.

(2) Pennsylvania: similar to the above reasons; also, unique assignment of enforcement authority to a separate state agency--the Human Relations Commission.

(3) New York: similar to the reasons listed for (1); in addition, existence of sharply divided political sensitivities; also, in a recent court cast (Buffalo) the state was held to be equally culpable with the local school district in maintaining a segregated school system.

(4) Wisconsin: a recent state law providing financial incentives for voluntary inter- and intradistrict transfers to promote desegregation.

(5) North Carolina: one of the most active state Equal Educational Opportunity (EEO) offices among the southern states.

The 12 states selected for telephone interviews had the following characteristics of interest:

(1) California: a western state with large Hispanic and Oriental populations.

(2) Connecticut: state law against segregation and currently developing a state role.

(3) Delaware and Ohio: the sites of court cases involving the state as a defendant.

(4) Indiana and Michigan: the sites of court cases involving interdistrict attempts at remedies.

(5) Florida and South Carolina: representative of southern states.

(6) Kentucky: a border state, and the site of the Louisville/Jefferson County case, in which two school districts were merged under court order to effect desegregation.

(7) Texas: a southern state with both large Black and large Hispanic populations.

(8) Minnesota: a middle-western state with a liberal political tradition and a voluntary desegregation program.

(9) Iowa: a middle-western state with a strong policy statement by the State Board of Education against segregated schooling, but with a lack of enforcement authority.

Data compiled in 1972 by the Office of Civil Rights (OCR) are presented in Table 1. The table shows the total and minority student populations of the states visited and telephoned.* It also indicates that the 19 states have 69% of the total student population in the nation and 68% of the minority student population. A further analysis of the minority student population indicates that the 19 states include 63% of the Black students and 84% of the Hispanic students.

In both the site visits and the telephone interviews, similar information was sought on laws, policies, key court cases, organization, staffing, funding, programs, activities, relationships, and desegregation status. Also, opinions were elicited about desired changes in the state role and in federal-state relationships. Each site visit involved meetings with several state officials and review of various state documents. In most cases the interviews were with the head of the EEO or CRA Title IV Office, or a comparable official, and key staff members, a responsible assistant superintendent, and a legal officer. In several cases, the chief state school officer was also interviewed. The telephone interviews were, of necessity, limited to one key official and were much shorter. In almost all of these cases, the interviews were with the head of the EEO or Title IV Office or his assistant. In all cases, both on-site and over the telephone, the officials were generous with their time, interested in the subject, and uniformly cooperative.

In addition to the site visits and telephone interviews, the study included two other important tasks:

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*These OCR data, although 5 years old, are the latest available. The results of a 1974 survey have not yet been published.

- A mail survey of the 25 largest LEAs. This survey consisted of a brief questionnaire designed to determine how school district officials feel about assistance or intervention by the state in effecting desegregation. The Council of Great City Schools provided assistance by mailing the questionnaire to its member LEAs. The survey was limited to the largest LEAs because they are often more independent of the SEAs than are the smaller LEAs; there was already good evidence that the small and medium-sized LEAs request, welcome, and use state agency assistance in desegregation matters.
- A legal review and analysis of recent court decisions indicating that SEAs have a responsibility in school desegregation. This task was performed to examine what the courts are saying about state responsibility for desegregation and to determine if a nationwide trend or other patterns are emerging that have implications for all states.

During all phases of the study, an attempt was made to identify innovative or effective state approaches for possible future dissemination to other states.

II FINDINGS

This section summarizes the basic information obtained from the SEAs regarding desegregation laws, policies, enforcement authority, organization, staffing, programs, activities, interactions, status of desegregation, and changes desired in state roles and federal-state relationships.* The information is organized to highlight the two policy questions about the state role and the changes desired in the federal-state relationships.

The information is presented as reported by the responsible state officials, augmented by state documents when available. The data and information thus obtained were accepted as given, recognizing that in some cases they were offered as individual viewpoints not necessarily representative of official SEA or state positions. The specific findings are summarized in Table 2 and discussed in the remainder of this section.

A. Role of the SEAs

1. Legal Basis for SEA Role in Desegregation (Table 2, Columns 1-6)

a. States Visited

Six of the seven states have enacted state laws against segregated schooling. The seventh, North Carolina, issued a legislative statement in 1955 permitting local option. In four of the states that have enacted state laws, the state board of education has also issued a policy statement or resolution emphasizing its commitment to desegregation. All seven of the SEAs require their LEAs to submit annual pupil

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*A detailed profile of responses from each state is presented in Appendix A. These profiles contain the basic information from which the findings and conclusions are drawn.

Table 2
STATE DATA SUMMARY

								Interactions										Desire Stronger State Role			Desire Stronger Federal Role				
	State Laws Against Segregated Schooling	Regulations or Policies	Require Periodic Pupil Census Reports	Require Local Deseg. Plans	Initiate Enforcement Actions	Respond Only when Requested	State Deseg. Organization EEO/CRA IV Unit	Local Administration	Citizen Groups	Teachers	Teachers Organization	Legislative Groups	Provide State Funds	Curriculum Reviews	Construction Review	Districts with Persistent Problems	Problems of Resegregation	Laws	Enforcement	Funds	Laws & Criteria	Funds	Technical Assistance	More Enforcement	Revise ESAA/CRA IV
States Visited																									
Illinois	✓	✓	✓	✓	✓		✓	✓	✓			✓	✓	✓	✓	8				✓	✓	✓	✓	✓	✓
Massachusetts	✓		✓	✓	✓		✓	✓	✓	✓	✓		✓		✓	9	✓			✓		✓			✓
New Jersey	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	6	✓				✓	✓	✓	✓	✓
New York	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓		✓	✓	6	✓			✓	✓	✓			✓
North Carolina		✓	✓			✓	✓	✓	✓	✓	✓	✓				3	✓		✓	✓	✓	✓	✓	✓	✓
Pennsylvania	✓		✓	✓	✓		✓	✓	✓	✓	✓			✓	✓	3	✓			✓	✓	✓		✓	✓
Wisconsin	✓		✓	✓		✓	✓	✓	✓	✓		✓	✓			1					✓	✓	✓	✓	✓
States Telephoned																									
California			✓			✓	✓	✓	✓	✓						3		✓	✓	✓	✓	✓	✓		✓
Connecticut	✓		✓	✓		✓	✓	✓		✓		✓				10	✓	✓	✓	✓	✓	✓	✓		
Delaware			✓			✓	✓	✓	✓	✓				✓		2				✓	✓	✓	✓		✓
Florida			✓			✓	✓	✓		✓						2				✓		✓	✓		
Indiana	✓	✓	✓			✓	✓	✓	✓	✓		✓		✓	✓	4					✓	✓		✓	✓
Iowa		✓	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	3		✓	✓	✓		✓	✓		
Kentucky		✓				✓	✓	✓	✓	✓	✓					1		✓	✓		✓	✓		✓	✓
Michigan		✓	✓			✓	✓	✓	✓	✓	✓	✓	✓	✓		3	✓	✓	✓	✓	✓	✓	✓	✓	✓
Minnesota		✓	✓	✓		✓	✓	✓						✓	✓	0				✓	✓	✓	✓		✓
Ohio		✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓		3		✓		✓		✓	✓	✓	✓
South Carolina			✓			✓	✓	✓	✓	✓					✓	0				✓		✓	✓		✓
Texas			✓			✓	✓	✓	✓				✓		✓	3				✓		✓	✓		

*See Appendix A for detailed state data.

census reports which, among other things, show minority distribution by school building. Based on these reports, the six states with laws against segregated schooling can require the LEAs to submit desegregation plans. Most importantly, however, only five of the states have given the SEA the power to initiate and enforce desegregation actions upon identifying racial imbalance in one or more school buildings. In Wisconsin and North Carolina the SEA lacks enforcement authority but tries to use persuasion instead and responds to requests for assistance from the LEAs.

b. States Telephoned

States interviewed by telephone presented a somewhat different picture than did those visited, not surprisingly, in view of the selection criteria for visits. Only two, Connecticut and Indiana, have state laws against segregated schooling, and only Indiana has both a law and a state board policy against segregation in the schools. Five of the other states have a state board policy against segregation, but only in Minnesota does the policy statement have the effect of law. The rest of the states have neither a law nor a policy statement; they rely instead on federal enforcement, through Title VI of the CRA, and on court decisions. None of the 12 states has authority to initiate enforcement actions. Four reported using a persuasive approach; the others react mostly to LEA requests for technical or consultative assistance. All but Kentucky, which relies on OCR data, require annual pupil census reports showing minority distributions by school building, but none of the SEAs can initiate actions based on the reports. Three of the states can request the LEAs to develop desegregation plans if excessive or out-of-balance minority enrollments are identified, but they have no authority to take action on refusal or on submission of unacceptable plans. One, Minnesota, reported success with a persuasive approach.

2. Desegregation Assistance Available from SEAs (Table 2, Columns 7-15)

a. States Visited

All seven of the states have an organizational unit called either an Equal Educational Opportunity (EEO) Unit or a Civil Rights Act, Title IV (CRA IV) Unit responsible for desegregation activities and supported completely or primarily by federal CRA IV funds. All the EEO/CRA IV units either report directly or have good access to the chief state school officer. All seven EEO/CRA IV units interact with local school administrators, local boards of education, and local citizen groups; all but one works directly with teachers and five work directly with teacher organizations; all but two have contacts with state and local legislative bodies. Four states provide some limited state funding to LEAs for desegregation projects (separate from funds provided for pupil transportation), and this practice is administered by the EEO/CRA IV units. Four EEO/CRA IV units review or prepare curriculum materials to eliminate racial stereotypes and promote multicultural understanding. Five SEAs, those with enforcement authority, review and/or approve local school construction plans to assure accessibility to both minority and nonminority students.

b. States Telephoned

All 12 states have an EEO or a CRA IV unit, or equivalent, responsible for desegregation activities. Few of the units report directly, but most have good access to the chief state school officer. All the EEO/CRA IV units interact with local administrators and local boards, all but two work directly with teachers, and all but three interact with citizen groups. However, only five have contact with legislative groups and only three with teacher organizations. Four of the states provide some state funding to LEAs for desegregation activities, mostly to help in emergency situations. Five EEO/CRA IV units review or prepare curriculum materials to eliminate racial stereotypes and promote multicultural education. Five states review or approve local school construction plans to try to assure racial balance in school populations, but none uses this as an enforcement lever. In general, the EEO/CRA IV units indicated that their principal activity is to respond to requests from local school superintendents and boards of education for technical and consultative assistance in desegregation matters. In most cases the LEAs require help because of court cases, OCR enforcement pressures, or local citizen group activity.

3. Assessment of Current Problems (Table 2, Columns 16-20)

a. States Visited

Despite good progress, all seven states reported one or more school districts with persistent problems of segregation, primarily in urban areas where the student population is more than 50% black. Five states reported problems of resegregation due to population changes or to "white flight." In general, all seven SEAs are reasonably satisfied with their current role and their commitment to desegregation, although one expressed a desire for the power to initiate and enforce desegregation actions. Five of the seven would also like to see more state funds allocated to desegregation activities.

b. States Telephoned

All but 2 of the 12 states reported one or more school districts with persistent problems of segregation; Minnesota and South Carolina consider their remaining problems minor. Only two states reported current problems of resegregation, but a number mentioned potential desegregation problems due to growing Hispanic populations. Five SEAs desire the establishment of a stronger state role in desegregation, including enactment of a state law prohibiting segregated schooling and power to initiate and enforce desegregation actions. One SEA, Ohio, wants a clearer state law but does not want enforcement authority. The other SEAs are more or less satisfied with the status quo, although 10 SEAs desire more state funds for desegregation activities.

B. Changes Desired in Federal-State Relationships (Table 2, Columns 21-25)

1. States Visited

Six SEAs desire a stronger federal-state partnership in desegregation activities, including the establishment of federal definitions, standards, and criteria for desegregation to provide guidelines and support for state activities. Massachusetts, which has a strong state program, does not consider this necessary but does think each state should be required to develop a coordinated plan for integrated education. All seven SEAs desire more federal funds for planning and training activities, and four desire technical assistance from federal agencies in developing and implementing desegregation plans. Several SEAs indicated that the establishment of regional resource centers to collect, maintain, and disseminate desegregation materials, to provide a forum for the discussion of mutual problems and the exchange of ideas, and to provide consultants with field experience would be highly desirable. Five states desire more consistent and vigorous enforcement against violations by the Office of Civil Rights and the Department of Justice.

All seven SEAs want legislative changes made in CRA IV and ESAA to reflect current needs. CRA IV is believed to be too restrictive in the activities it can fund, and greater flexibility is desired. The SEAs indicated that funding needs to be increased since the same resources now have to be stretched to cover sex discrimination as well as racial discrimination activities. The SEAs also desire a larger and more formal role in the development, approval, and monitoring of ESAA projects. At present, most of the SEAs informally advise and assist LEAs, at their request, in the preparation of ESAA proposals. The SEAs also provide informal comments to the HEW regional offices on request about ESAA proposals in their state and may informally participate with regional office staff in the monitoring of ESAA projects. Thus the SEAs are in the ambiguous position of knowing about and being informally involved with ESAA projects but not having any real voice in the decision process.

Almost all the SEAs agree that the role of the CRA IV funded General Assistance Centers (GACs) needs clarification. The GAC technical assistance and training functions are viewed as similar to those of the SEA CRA IV units. Although in some instances there is excellent cooperation between the GAC and the SEA and the total workload may be shared, in others there is little communication between the two and they may be working at cross purposes. In some cases the SEA views the GAC as a competitor and questions the value of its efforts. The situation had been documented in the RAND report* and does not need further elaboration here.

2. States Telephoned

Only 7 of the 12 states desire a stronger federal-state partnership, including the establishment of federal definitions, standards, and criteria for desegregation to provide guidelines and support for state activities. However, all desire more federal funds for planning and training, and all but two want technical assistance. Only four think more enforcement by OCR and/or the Justice Department is necessary. Eight of the 12 would like to see legislative changes made in CRA IV and ESAA to reflect current needs; the other 4 states see no need for changes.

C. LEA Opinions of State Roles

Brief questionnaires were sent to the 25 largest school districts in the country to ascertain their feelings about SEA involvement and assistance in school desegregation matters and about the nature of that assistance when it is desired. There were 17 responses, including two from different offices in Denver. One responding LEA requested anonymity. The responses are summarized in Table 3 and described below.

Of the 17 responding LEAs, 13 expressed a need for SEA involvement and a desire that it take place. Fourteen (including one that does not

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*See the bibliography.

Table 3
DESIRES OF LARGE METROPOLITAN SCHOOL DISTRICTS FOR SEA INVOLVEMENT

School District	Total Student Enrollment (thousands)**	Minority Student Enrollment (thousands)**		Need for SEA Involvement	Desire for SEA Involvement	Financial Assistance	Technical Assistance				National Desegregation Standards & Regulations	Compliance & Enforcement Activity	Intermediary w/ Fed. Govt./Court
		Blacks	Hispanics				Consultant Help	Training & Workshops	Community & Parent Grp.	Other (Specify)			
Atlanta	85.2	72.1	.2	No	No								
Baltimore	173.2	125.3	.1	Yes	Yes	Yes							Yes
Chicago	530.2	309.5	67.5	Yes	Yes	Yes							
Cleveland	132.0	75.8	3.5	Yes	Yes	Yes	Yes	Yes	Yes	Involve Suburbs	Yes	Yes	
Dade County (Miami)	246.3	84.9	72.9	Yes	Yes	Yes					Yes	Yes	Yes
Dallas	140.5	63.8	18.4	Yes	Yes	Yes	Yes	Yes	Yes				Yes
Denver				Yes	Yes	Yes							
Denver (Sch. Dist. #1)	79.7	14.6	20.5	Yes	Yes	Yes	Yes	Yes	Yes				Yes
Detroit	258.3	184.0	4.4	Yes	Yes	Yes	Yes						
Memphis	115.9	8.7	.1	Yes	Yes	Yes							
Nashville	81.4	23.4	.1	Yes	Yes	Yes	Yes	Yes	Yes		Optional	Optional	Option
New York	824.4	403.8	352.7	No	No								
Philadelphia	266.5	164.6	12.5	Yes	Yes	Yes							
Portland (Oregon)	63.5	7.5	.8	Yes	Yes	Yes	Yes	Yes			Yes	Yes	
St. Louis	93.3	66.2	.3	Yes	Yes	Yes	Yes	Yes	Yes	Advocacy & Interdistrict Planning			Yes
San Diego	121.3	18.5	14.4	No	No	Yes							
Not Identified*	73.7	22.3	10.6	No	No								

* This LEA requested anonymity.

** Source: Fy' 74 OCR Data

want SEA involvement) would like SEA financial assistance. Seven LEAs would like some form of technical assistance, including consultants, training and workshops, and community/parent organizations, in addition to financial assistance. Two LEAs also specified that they would like SEA assistance with interdistrict planning. No respondent indicated a desire for technical assistance without financial assistance.

Three LEAs want the SEA to develop desegregation standards and regulations and to be involved in compliance and enforcement activities; one LEA considers these activities optional.

Finally, five LEAs want the SEA to act as an intermediary with federal agencies and the courts; one considers this role optional.

D. Legal Trends

Nine important court cases in which an SEA was involved in the violation and/or the remedy were examined to determine what the courts were saying about the state role in educational desegregation. The decisions were also analyzed to determine if a trend or pattern is developing.

The cases are:

- Detroit, Michigan - Milliken v. Bradley
- Buffalo, New York - Arthur v. Nyquist
- Coney Island (Brooklyn), New York - Hart v. Community School Board of Brooklyn, New York School District 21
- Indianapolis, Indiana - U.S. v. Board of School Commissioners of the City of Indianapolis
- Wilmington, Delaware - Evans v. Buchanan, (1975 + 1976)
- Louisville/Jefferson County, Kentucky - Newburg Area Council Inc. v. Board of Education of Jefferson County and Haycroft v. Board of Education of Louisville
- Cleveland, Ohio - Reed v. Rhodes
- St. Louis County, Missouri - U.S. v. State of Missouri
- Los Angeles, California - Jackson v. Pasadena City School District and Crawford v. Board of Education of the City of Los Angeles.

Although each case was unique, a court did find in each case that the state agency involved was responsible for segregatory actions and ordered it to be a party to the remedies. There is no single pattern emerging by which the courts seem to be holding the SEAs or state boards of education responsible for ending segregation generally within their states, but the following trends seem to be emerging:

(1) Where states can be shown to be a party, by acts of either omission or commission, to intentional discrimination in the schools, the courts will order them to participate in the remedies.

(2) Where states accept a responsibility, through either enactment of a state law or passage of a resolution by a state agency, to end discrimination in the schools, the courts will require them to fulfill that responsibility.

(3) Federal courts will not order interdistrict remedies unless each district involved can be found to have intentionally taken segregatory actions with interdistrict effects. This last trend has acted to restrict desegregation efforts in many school districts. However, states with enabling legislation may, on their own initiative, merge districts, change school boundaries, order interdistrict transfers, or take other steps to end segregation in their schools without court order.

Each of the cases is analyzed in detail in Appendix B.

III CONCLUSIONS

A. Role of the SEAs

Of the 19 states visited or called, only 9 can be considered as having reasonably active desegregation efforts--active in the sense of trying to take positive steps at the SEA level to eliminate segregation at the LEA level. Because the 19 states were identified by experts as the principal states with an SEA role in the desegregation process, it is unlikely that more than a few states outside of the 19 have active efforts.

Of the nine states with active efforts, however, only five have authority to identify schools with excessive or out-of-balance minority enrollments, to initiate desegregation actions, and to take enforcement steps to compel compliance. These five states--Illinois, Massachusetts, New Jersey, New York, and Pennsylvania--are the only states considered to have a comprehensive state role, yet even these states are not free from problems, political pressures, and citizen resistance. The five states can be generally characterized as having:

- A strong commitment to desegregation by the state board of education, the SEA, and the chief state school officer.
- Authority in state law to eliminate segregated schooling.
- Programs to identify segregation, and to require and help the LEAs develop and implement desegregation plans.
- Relatively large EEO/CRA IV staffs with direct access to the chief state school officer.
- A variety of training programs, seminars, workshops, conferences, and meetings to assist local school boards, superintendents, administrators, teachers, students, parents, and community groups in the desegregation process. Heavy emphasis is placed on multiracial, multicultural, and human relations understanding in these programs.
- Development and/or review of curriculum and instructional materials to eliminate racial bias and promote multicultural understanding.

- Review and approval of LEA construction plans to ensure that the school sites chosen will be accessible from both minority and nonminority neighborhoods.
- Extensive interaction between the SEA and the local school district administrators, teachers, students, parents, legislative bodies, and community groups.

The other four states judged to have reasonably active desegregation programs--Wisconsin, Michigan, Minnesota, and Iowa--share most of these characteristics but rely primarily on persuasion and voluntary action rather than compulsion.* Because they have no authority to initiate enforcement actions or to compel compliance, they have a relatively lower level of activity than the first five states.

The other 10 states generally have a lower level of commitment to desegregation. Although many of the chief state school officers and the staffs of the EEO/CRA IV units may have strong individual commitments, generally the state boards of education and the state legislatures do not actively support these commitments. Hence, the level of desegregation activity is lower than that in the nine states previously identified.

Outside those states that already have enforcement authority and are generally satisfied with their state role, most of the chief state school officers and their staffs desire a strengthened state role in the desegregation process. By this they mean a strong commitment to desegregation by the state board of education and/or a state desegregation statute, more staff and funding resources, and authority to initiate and enforce desegregation after identifying segregated schools. Except for the handful of leaders already identified, however, states seem unlikely to voluntarily and actively pursue desegregation on their own. The reasons encompass the spectrum from apathy, indifference, and maintenance of the status quo to community hostility and resistance to busing. Desegregation issues are politically sensitive, and few political leaders at the state level appear willing to press them.

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*In Minnesota, the regulation against segregation by the state board has the effect of law, and the SEA can enforce compliance by a reduction in state aid. It has not had to do so and prefers a helpful assistance role.

Even civil rights activists currently seem to be focusing their major attention on other matters, such as housing, employment, and sex discrimination, rather than on education. Therefore, the current state role and behavior are unlikely to change in any significant way without prodding by the courts and/or the federal government. Since the courts do not seem to be involving the states, except in circumstances where segregatory intent can be demonstrated, further action seems to hinge on initiatives by the Congress and the federal agencies.

B. Changes Desired in Federal-State Relationships

With respect to changes desired in the relationship between the federal government and the states, the states with strong programs desire a closer partnership with the federal government, including a greater voice in desegregation programs, fund allocation, and monitoring activities. They want to see the establishment of federal definitions, standards, and criteria for integrated education in order to provide a basis and support for state activities, and they want to participate in their establishment. They also want to see more active and consistent enforcement against violations by the federal government and to be a partner in the enforcement actions.

Many of the states with less active programs desire a similar partnership with the federal government to strengthen the hand of the SEA. These states want to use a strong federal requirement for desegregation as a lever against state resistance and apathy. Not all the states agree, however: some of the southern and middle-western states seem content to maintain the status quo and seem unwilling to do more than the courts require them to do.

With regard to present SEA interactions with the federal government, most SEAs indicated that the purposes and uses of CRA IV need to be reexamined in light of today's conditions and needs. They desire more flexibility in CRA IV to cover a broader range of activities, and they want the SEA to share in ESAA projects and to have more voice in their approval and monitoring. Specifically, the role of the CRA IV funded

GACs needs to be clarified. Although the legislative intent in establishing separate organizations was to provide multiple approaches and tools for the desegregation process, this premise may need reexamination. In relation to ESAA programs, the SEAs claim that a stronger, more structured role would assure better coordination with state programs and priorities. This contention is probably true for states that have an active desegregation program. For others, however, having greater control of ESAA programs could be ineffective or possibly counterproductive for promoting desegregation.

C. LEA Opinions of State Roles

Before the questionnaire was sent, it was assumed that most large LEAs would not welcome the notion of SEA involvement in school desegregation matters, as they tend to reject such help in many other areas. Traditionally, the large LEAs have sufficient manpower, financial, and technical resources that they try to maintain a relative independence from their SEAs. On the other hand, the small and medium-sized LEAs lack these resources and often call on the SEA for assistance. In the desegregation area, for instance, SEAs reported many requests for assistance by the smaller LEAs.

The questionnaire results, however, revealed that most of the large LEAs surveyed would not oppose SEA involvement in desegregation matters, with over half actively welcoming SEA assistance. Although the 25 largest cities have only 11% of the nation's student population, their students are 62% Black and Hispanic and comprise 32% of the nation's minority students. Further, since most of the remaining difficult desegregation problems are in these large cities, their acceptance of SEA assistance is a significant finding. Additionally, 30% of the respondents desire the SEA to be an intermediary in dealings with the courts and/or the federal government.

D. Legal Trends

The tendency of the courts is to limit responsibility for remedies to the local level, except when the state is directly involved in creating segregated conditions or when the state has, but does not sufficiently exercise, legal authority to bring about desegregation. With a few notable exceptions, the courts are also generally not requiring states to develop interdistrict remedies to end urban minority isolation, although a few SEAs have used this authority on their own initiative. Assuming these legal trends continue, there will be little pressure from the courts for greater involvement by SEAs not already substantially active in desegregation efforts.

IV POLICY IMPLICATIONS AND RECOMMENDATIONS

The findings and conclusions of this study have several implications for policy purposes:

- Because the majority of states are unlikely either to take the initiative in assuming responsibility for desegregation efforts or to be required by the courts to assume such responsibility, federal policy must be based on the assumption that further progress in this direction depends on action by the Congress and the federal agencies.
- It can be argued that the next generation of desegregatory actions needs to involve the states so as to share and decentralize the workload. If it is thus decided as a matter of national policy to enlarge the state role, the federal government must take a comprehensive approach in the form of requirements (laws, rules, and regulations), financial rewards, and penalties for noncompliance. Federal programs without teeth, or ones that rely on voluntary action by the states, are not likely to succeed. Similarly, financial incentives without accompanying federal requirements for state action would probably not create any significant change.
- Federal-state relationships and state behavior can be changed by making the states a partner in further desegregation efforts. However, because the states differ in their current stances toward desegregation, a variety of approaches are necessary:

    (1) About 10 states have such small or scattered minority populations that they do not have major problems of racial discrimination. They do not require federal attention in this area.

    (2) States that have demonstrated leadership and have commitment, laws, and enforcement authority should be further encouraged and rewarded for their efforts. They could be made full partners with the federal government in identifying segregatory situations and in initiating and carrying out desegregation activities. To help them carry out their enlarged responsibilities, they could be given larger CRA IV grants, be made responsible for approving ESAA projects within their states, and be given some direct ESAA grants. These actions would require changes in CRA IV and ESAA legislation.

(3) States that have demonstrated a commitment and have taken some voluntary action but have not given their SEAs statutory authority to initiate and enforce desegregation could be encouraged to move further. Federal standards and criteria could be established to provide support for their efforts, and they could be offered financial incentives to intensify their efforts--greater CRA IV funds and a larger voice in the review of ESAA proposals, for example.

(4) The rest of the states, approximately 30, will need to be pushed harder by the federal government if further desegregation is to be achieved. First, HEW should provide, or at least restate in clearer and more specific terms than exist at present, definitions, standards, criteria, and guidelines for desegregation and quality integrated education. Second, the states could be required to submit acceptable desegregation plans, which include identification of minority-isolated schools (as defined) and specification of time-phased SEA/LEA efforts to desegregate them. Federal grants (CRA IV funds at a minimum) should be tied to approval of the plans. In the absence or disapproval of such plans, there could be a penalty such as the withholding of other federal funds. A mechanism should also be established to financially reward those states making the greatest effort, such as a share of ESAA funds for state use. These actions would require changes in CRA IV and ESAA legislation. Consideration needs to be given, however, to the limited capability of some states to accept an expanded role. Because of limited resources (funds and staff), low commitment, and level of activity, they may lack the ability to take on a larger role without considerable training and assistance.

The findings and conclusions also suggest the following additional recommendations:

(1) The purposes, scope, and uses of CRA IV need to be reexamined in light of today's needs. SEAs, which now consider it too restrictive, should be consulted in any reexamination.

(2) The purposes, scope, and uses of ESAA should be reexamined. The role of the states in development, review, and monitoring of proposals and projects should be formalized, and some ESAA grants should be made available directly to SEAs with a demonstrated commitment to desegregation.

(3) A revised form of the Preyer Bill ("The National Educational Opportunities Act of 1975") should be considered as possible administration-sponsored or -supported legislation. Such a bill would:

- Restate and expand national policy on school desegregation and quality integrated education.

- Require HEW to promulgate regulations on standards, criteria, definitions, and practices.
- Require state plans.
- Provide incentives for voluntary student transfers and for other activities, such as metropolitan cooperation and careful siting of new school construction, that further reduce minority group isolation.

(4) Many of the states endorsed the concept of regional resource centers to collect and disseminate information on effective desegregation approaches and practices, provide technical assistance in developing and implementing desegregation plans, provide consultative services to SEAs and LEAs in problem and crisis situations (based on field experience of the staff), and provide a forum for discussion and exchange of ideas. These should be established, perhaps through a redirection of current GAC activities.

(5) Similarly, many states expressed a desire for periodic national meetings or workshops to discuss common problems, exchange ideas, and provide a means for dialogue with federal officials in USOE, OCR, and the Department of Justice. These meetings should be arranged.

(6) The confusion over the relationship between the technical assistance and training activities of the GACs and the activities of the EEO/CRA IV units of the SEAs needs to be resolved.

(7) There may be some archaic anti-desegregation laws still on the books of various states. These need to be identified and a "cleanup" effort initiated.

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Appendix A

STATE PROFILES

APPENDIX A

STATE PROFILES

Appendix A provides a profile of the views and experiences reported by officials in each of the 7 states visited and the 12 interviewed by telephone. As is evident, more information was obtained from those visited. Because of the criteria used to select the states to be visited, they also tended to have the most active desegregation efforts.

Profiles of States Visited

- Illinois
- Massachusetts
- New Jersey
- New York
- North Carolina
- Pennsylvania
- Wisconsin

Profiles of States Called

- California
- Connecticut
- Delaware
- Florida
- Indiana
- Iowa
- Kentucky
- Michigan
- Minnesota
- Ohio
- South Carolina
- Texas

ILLINOIS

1. Demographic Data (OCR Survey, Fall 1972)

   Public School Student Enrollment - 2,262,500

   Minority Enrollment - 523,554 (23.1% of the total; 15.7% Black, 3.8% Hispanic).

   Note: According to Illinois State estimates for the school year 1972-73, total public school enrollment was 2.35 million with a minority enrollment of 533,000 or 22.65%. Of this 15.3% was Black and 3.8% was Hispanic.

2. State Statutes

   The Armstrong Act of 1963, also known as the School Desegregation Act, outlawed segregated schooling in Illinois. The Act was tested in the courts and its constitutionality upheld in 1967.

3. Policy Statements/Resolutions

   The State Superintendent of Public Instruction promulgated the first set of desegregation rules in December 1971. In February 1976 the State Board of Education reaffirmed a commitment to desegregation and updated the rules.

4. Desegregation Enforcement Authority

   Under the authority of the Armstrong Act and the rules established in 1971 to implement that act, the Superintendent of Public Instruction can, upon evidence of racial imbalance, require a local school district to prepare a desegregation plan. During the year allowed for preparation of the plan, the local school district may be placed on probation. If the district is uncooperative or fails to act, it can be placed in a "non recognition" status and state funds can be cut off. Also, the Superintendent has the authority to impose a plan developed by the SEA. Although no state funds have yet been withheld, there are two districts considered to be close to that point.

5. Responsible Organization

The Equal Educational Opportunity Section of the SEA was established in 1966. Its head reports to a deputy superintendent, who reports to the State Superintendent. The EEO Section is divided into two parts. The main office is in Chicago, where most of the activity is located; the other office is in the state capitol in Springfield. The geographic split is based on the distribution of workloads. The EEO Section is funded both by CRA IV and state funds; state funds amount to 25% of the total. The staff consists of three professionals and one clerical in Springfield and five professionals and two clericals in Chicago. Staff skills and training are mostly in education. Staff is racially mixed, including Blacks and Hispanics.

6. Staff Activities

a. Leadership--Includes identification through annual reports of LEAs with excessive minority enrollments in one or more school buildings and requests to those LEAs to develop acceptable desegregation plans.

b. Consultations and Meetings--Initiates and responds to requests for meetings with school administrators, school boards, teachers, students, parents, and community groups to discuss and resolve desegregation-related problems.

c. Training Programs, Seminars, Workshops--Conducts programs for administrators and teachers. Holds two regional meetings annually, with 10 to 12 schools represented at each meeting. The purpose is to train staff at these schools in desegregation techniques. The trainees in turn train their own associates. In this way a network of trained people has been developed.

d. Minority Recruitment--Provides a clearinghouse function for minority jobs throughout the state.

e. Curriculum Review--Works closely with personnel from the Ethnic Education Section to review and develop curriculum material of a multicultural nature. Distributes to requesting school districts all kinds of material appropriate for use in desegregated classes and conducts workshops to promote the concepts of ethnic education.

f. Construction Review--Reviews construction plans submitted by LEAs for compliance with desegregation rules (especially site selection).

g. Planning Assistance--Assists LEAs in desegregation planning and implementing desegregation plans. Also, has organized a statewide consortium of administrators, teachers, parents, and students from districts which have successfully desegregated. This consortium is available to meet with and assist school personnel and citizens facing desegregation.

h. ESAA Project Assistance--Assists LEAs on request in preparation of ESAA proposals. Provides comments on request to the HEW regional office on LEA proposals. Informally helps the HEW regional office monitor ESAA projects.

i. Pupil Enrollment Reports--Receives and reviews annual pupil enrollment reports (required of each LEA) for evidence of racial imbalance in schools. Each school building can be no more than 15% different from the school district minority distribution. If it is, the report is used as a basis for initiating desegregation activity.

j. Response to Requests for Assistance--Attitude of the staff is reported to be one of helpful cooperation. The EEO Section responds to requests by LEAs, community groups, administrators, officials, and others for assistance.

k. State Funds--In addition to 25% of the staff salaries for the EEO Section, some small amounts are available to desegregating LEAs for special purposes. A total of $100,000 was available in FY 76. In addition, the state pays student transportation costs for all busing over 1½ miles and helps with financing of consultants and the development of desegregation plans.

7. Interactions

The EEO Section interacts with school boards, administrators and staff, teachers, parents, community groups, and the state legislature. There is considerable contact with the media in response to their questions. Also, the state desegregation rules require the formation of citizen groups representative of the community composition. The EEO Section is often involved in the formation of such groups.

8. Status of Desegregation

Illinois is generally considered by desegregation experts to have a successful desegregation program. Out of 85 school districts initially identified as having desegregation problems, there are only six persistent cases left. One of the six is Chicago, which presents an unusually difficult and politically sensitive case. Desegregation activity has been accelerated since early 1976 with a change from an elected superintendent to an appointed state board and an appointed superintendent. There have been no serious disturbances in the last five years. Good relations exist between the SEA and almost all local districts. There are many successful ESAA proposals, and the HEW regional office seems pleased with the Illinois desegregation activities. Resegregation is not yet a serious problem. However, there are several districts on the borderline of resegregation and a growing Hispanic population has increased the potential for minority group isolation in some communities.

9. Changes Desired in the State Role

Although the present state role is strong, it could be improved through better relations with the other state offices, including the Governor's Office, mayors' offices, business offices, and community groups. More state funds for desegregation activities would also be helpful.

10. Changes Desired in Federal-State Relationships

a. Closer cooperation with the federal government in all phases of desegregation activities.

b. Better congressional support of desegregation, including more consistent support of court actions.

c. More even and consistent enforcement by OCR and the Department of Justice.

d. Federal standards and criteria for desegregation, including a definition of what is considered to be desirable integrated education.

e. State approval of ESAA projects.

f. Revision of CRA IV to reflect current requirements.

g. More federal funding.

h. Technical assistance from HEW, especially for desegregation plan development.

i. Establishment of regional resource centers to perform a clearinghouse function for collection and dissemination of good approaches and ideas.

11. Innovative Approaches

The State Superintendent has committed the entire SEA to help promote desegregation. All SEA staff are available to augment the activities of the EEO Section, and to act as their eyes and ears on field visits throughout the state. Also, the concept of a statewide consortium from successfully desegregated Illinois districts to meet with and assist school personnel and citizens facing desegregation is unique.

MASSACHUSETTS

1. Demographic Data (OCR Survey, Fall 1972)

Public School Student Enrollment - 1,178,200.

Minority Enrollment - 79,900 (6.8% of the total; 4.9% Black, 1.4% Hispanic). Note: According to the 1975-76 Massachusetts state census, there are approximately 61,000 black students enrolled in the public schools. Over half are in Boston, another 15% in Springfield, and the balance in New Bedford, Cambridge, and Brockton. There are approximately 36,000 Hispanic students concentrated in nine communities: Boston, Cambridge, Chelsea, Holyoke, Lawrence, Lowell, New Bedford, Springfield, and Worcester. There is also a concentration of Portuguese students in the Fall River area.

2. State Statutes

In 1965 the state enacted a Racial Imbalance Law requiring desegregated schooling in Massachusetts. Between 1965 and 1971 implementation proceeded slowly. In 1971 state aid was withheld from Boston and Springfield because of findings of violation. Between 1971 and 1973 court cases upheld the State Board of Education findings. In January 1973 regulations for desegregation plans were promulgated. In July 1974 the Racial Imbalance Law was amended and weakened somewhat. Among other changes, it provides financial incentives for voluntary transfer rather than compelling desegregation.

3. Policy Statements/Resolutions

Since 1965, both the State Board of Education and the Commissioner have reaffirmed their commitment to desegregated schooling.

4. Desegregation Enforcement Authority

The Commissioner has been assigned authority to withhold state funds for noncompliance with state law and related rules and regulations. The Commissioner can request local school districts to prepare desegregation plans, and can approve or disapprove such plans. His authority to do so has been tested and upheld in several court cases. Districts that do not comply can be taken to court in addition to having funds withheld.

5. Responsible Organization

The Bureau of Equal Educational Opportunity of the SEA was established in 1965 and reports directly to the Commissioner. The Bureau has four units, one concerned with CRA IV, one implementing Section 622 of the State Law on Racial Imbalance, one implementing Section 636 of the State Law on voluntary transfers, and one responsible for Metco, which provides for transfer of students between cities and surrounding suburbs. There is a total staff of 14 professionals and 2 clericals. Two full-time professionals, one half-time professional, and one clerical are funded out of CRA IV. The rest of the staff is funded out of state funds. Staff skills and training are mostly in education, with some community involvement. The background of the Director is primarily in civil rights activities. CRA IV funds for FY 77 are $86,622; $162,500 has been requested for 1978, approximately half for racial desegregation activities and the other half for sex discrimination activities. Staff is racially mixed, including Blacks and Hispanics.

6. Staff Activities

a. Leadership--Includes identification through annual reports of LEAs with excessive minority enrollments in one or more school buildings and requests to those LEAs to develop acceptable desegregation plans. Uses encouragement rather than coercive action.

b. Consultations and Meetings--Initiates and responds to requests for meetings with school administrators, community groups, and other local leadership groups to discuss and resolve desegregation-related problems.

c. Training Programs, Seminars, Workshops--Conducts or arranges programs for administrators, teachers, local school boards, community groups, and others.

d. Minority Recruitment--Provides consultative services on request.

e. Curriculum Review--Does not participate.

f. Construction Review--Reviews new and renovation construction proposals for evidence of segregation. SEA provides 75% of the construction funds.

g. Planning Assistance--Provides technical assistance to LEAs in the development and implementation of desegregation plans.

h. ESAA Project Assistance--Assists LEAs on request in preparation of ESAA proposals. Provides comments on request to the HEW regional office on proposals.

i. Pupil Enrollment Report--Receives and reviews annual pupil enrollment reports (required of each LEA) for evidence of racial imbalance in schools. Uses reports as basis for initiating desegregation activities.

j. Response to Requests for Assistance--Attitude is reported to be one of helpful cooperation. Responds to requests by LEAs, community groups, and school administrators.

k. State Funds--State funds are provided for EEO staff, for the Metco program ($5.9 million in 1977), for Section 636 projects ($6 million), for transportation ($10 million), and for magnet schools ($3 million).

7. Interactions

The EEO Office interacts mostly with school administrators and local leadership groups. There is some limited interaction with local school boards and with teachers.

8. Status of Desegregation

Except for Boston, which is under court order, the problem of Black minority isolation seems essentially to be resolved. However, there is a new and growing problem of isolation of Hispanic students and, at least in one area, Portuguese students. Three of the local school districts, including Boston, are working on development of adequate desegregation plans, and six other school districts have voluntarily submitted plans.

9. Changes Desired in the State Role

The present state role is considered strong; only minor changes are desired:

a. Increased staff.

b. More state funds.

c. Opportunity for stability. In this regard, the last six years have seen minimum legislative and popular support. Most of the support for desegregation has come from the Commissioner and the State Board.

10. Changes Desired in Federal-State Relationships

a. State-controlled intervention in ESAA projects for better impact. At present almost all ESAA money in Massachusetts goes to Boston.

b. Better interaction with the HEW regional office to include a greater voice in funding decisions so as to coordinate with state priorities.

c. State should be required to develop a coordinated state plan for integrated education as a basis for federal desegregation funding.

NEW JERSEY

1. Demographic Data (OCR Survey, Fall 1972)

   Public School Student Enrollment - 1,468,900 (82% concentrated in 11 school districts).

   Minority Enrollment - 312,930 (21.3% of total; 15.7% Black, 5.1% Hispanic).

   Note: According to N.J. State estimates, minority enrollment is 1/3 of the total student population as of Fall 1976.

2. State Statutes

   Ratification of the State Constitution in 1947 outlawed segregated schools.

3. Policy Statements/Resolutions

   A State Board of Education resolution in November 1969 related to problems of racial imbalance in New Jersey public schools. The State Board policy was reaffirmed in December 1972.

4. Desegregation Enforcement Authority

   The State Commissioner is assigned authority to withhold state funds for noncompliance with state law and related rules and regulations. The Commissioner can request local school districts to prepare desegregation plans, can approve or disapprove such plans, and can impose another plan if necessary. This authority has been tested and upheld in several court cases.

5. Responsible Organization

   The Equal Education Opportunity Office of SEA was established in 1968. It reports directly to the State Commissioner. Funding in FY 76 was $380,000 from CRA IV funds and $86,000 from state funds. The staff consists of 13 professionals and 8 clericals. Staff skills and training include education, law, and social work. The staff is racially mixed, including Blacks and Hispanics.

6. Staff Activities

   a. Leadership--Includes identification through annual reports of

LEAs with excessive minority enrollments in one or more school buildings and requests to those LEAs to develop acceptable desegregation plans. Maintains oversight of all LEAs.

b. Consultations and Meetings--Initiates and responds to requests for meetings with school administrators, parent and community groups, and professional organizations to discuss and resolve desegregation-related problems.

c. Training Programs, Seminars, Workshops--Conducts programs for administrators, local school boards, teachers, students, parents, and community groups.

d. Minority Recruitment--Provides consultative services.

e. Curriculum Review--Develops new techniques and materials for classroom use, reviews multiethnic, multicultural materials developed by LEAs to eliminate stereotypes.

f. Construction Review--Reviews construction proposals for new buildings and renovations to assure integration.

g. Planning Assistance--Provides technical assistance to LEAs in the development and implementation of desegregation plans.

h. ESAA Project Assistance--Assists LEAs, on request, in preparation of ESAA proposals; provides comments on LEA proposals, on request, to HEW regional office; informally helps regional office monitor ESAA projects.

i. Pupil Enrollment Reports--Receives and reviews annual pupil enrollment reports (required of each LEA) for evidence of racial imbalance in schools. Uses report as basis for initiating desegregation activities.

j. Response to Requests for Assistance--Attitude is reported to be one of helpful cooperation--responds to requests by LEAs, community groups, other state agencies, federal agencies, universities, and others for assistance.

k. State Funds--Funds are provided for EEO Office, and limited funds are available for LEA projects ($2,000 to $17,000 per project).

7. Interactions

The EEO Office's broad spectrum of interactions includes school boards, school administrators, teachers, parents, students, community groups, local legislative bodies, professional education associations, federal and state agencies, and the media.

8. Status of Desegregation

Out of 102 districts initially and subsequently identified as having excess minority enrollments in one or more schools, 90 have developed and are implementing acceptable plans. The other 12 have plans in various stages of development. Six of the 12 have serious problems, which cannot be resolved without interdistrict remedies. The parochial school system is considered to be a barrier to desegregation because of the ease with which students can transfer into it. About 12 districts have problems of resegregation because of population shifts.

9. Changes Desired in State Role

Present state role is considered strong; no significant changes are desired.

10. Changes Desired in Federal-State Relationship

a. More even and consistent enforcement by OCR.

b. More federal funds--for teacher in-service training, retraining of administrators, orientation of local school boards, pilot testing of regionalization, private and parochial school desegregation, construction and rehabilitation of school facilities (possibly with Public Works funds), and transportation of students in interdistrict transfers. Would be willing to use matching state funds.

c. Establishment of regional resource centers to facilitate dissemination of successful approaches.

d. Task forces with federal and state representatives for help in problem areas.

e. Training in evaluation and civil rights laws.

f. Periodic meetings to exchange ideas and update knowledge.
g. More voice in ESAA proposals to assure consistency and coordination with state programs.
h. Federal standards, definitions, and guidelines for desegregation; however, these need to be flexible. Rigid rules and regulations would be counterproductive.

11. Innovative Approaches

Use of Educational Support Teams--a task force approach to provide broad-based community support to local superintendents. Members include the Superintendent, board representatives, teacher representatives, students, local officials, parents, civic association and pressure group representatives, and business leaders.

NEW YORK

1. Demographic Data (OCR Survey, Fall 1972)

Public School Student Enrollment - 3,457,000, with approximately 30% located in New York City and another 8% in the cities of Albany, Syracuse, Yonkers, Rochester, and Buffalo.

Minority Enrollment - 920,592 (26.6% of total; 16.1% Black, 9.6% Hispanic). 86% of the minority enrollment is located in the six big cities of the state, with 78% of the minority enrollment being in New York City alone.

2. State Statutes

Under Section 310 of the Educational Practices Act, the Commissioner of Education has the authority to receive petitions from citizens on various types of complaints, including allegations that certain acts committed by boards of education or any of their agents have led to inequality of educational opportunity. Under the same section the Commissioner has the authority to order a school district to provide equality of educational opportunity even when there has been no petition from an individual or individuals. The Educational Practices Act was originally enacted in the 1930s. A revision in 1948 included a ban against discrimination in higher education. In 1954 the state enacted the Human Rights Law, which bars discrimination in employment, housing, and places of public accommodation as well as in education. The law established the Division of Human Rights as a separate state agency to administer its provisions. It did not alter the Commissioner's authority to act in cases of educational discrimination.

3. Policy Statements Resolutions

Starting in 1960, the State Board of Regents issued a number of policy statements on racial integration, the latest one being issued in 1975. The Board of Regents clearly supports integrated education.

4. Desegregation Enforcement Authority

Under Section 310 of the Educational Practices Act, the Commissioner has strong authority to enforce desegregation. This authority has been tested and upheld in the courts, including the Supreme Court. The Commissioner's enforcement authority includes the issuing of desegregation orders, the cutting off of state funds, the removal of board members, the institution of court action, and the imposition of state plans on local school authorities. However, the Commissioner tries to exercise persuasion rather than power; he uses power as a last resort.

5. Responsible Organization

The Division of Intercultural Relations in Education was established in the SEA as a result of the Educational Practices Act revision in 1948. In 1966 the Division received its first CRA IV funding of $256,200 for the 3-year period ending in 1969. For 1976 the Division received $202,400. The current staff has eight professional and five clerical positions. The state supplies much of the funding for the staff positions. Staff skills and training are primarily in education, but the staff has additional training in civil rights, psychology, and social work. The professional staff is racially mixed.

6. Staff Activities

   a. Leadership--Includes the identification through annual reports of LEAs with excessive minority enrollments in one or more school buildings and stimulation of desegregation activities to correct imbalances.
   b. Consultations and Meetings--Initiates and responds to requests for meetings with school administrators, parent and community groups, and professional organizations to discuss and resolve desegregation-related problems.
   c. Training Programs, Seminars, Workshops--Conducts programs for administrators, school boards, teachers, students, community groups, and noninstructional personnel.

d. Minority Recruitment--Works with the Office of Human Relations to promote minority staffing.

e. Curriculum Review--Works closely with the curricula staff to ensure that materials are free from racial bias.

f. Construction Review--Not a function of the Division of Intercultural Relations.

g. Planning Assistance--Works with LEAs on the preparation of desegregation plans and in their implementation.

h. ESAA Project Assistance--Assists LEAs on request in preparation of ESAA proposals.

i. Pupil Enrollment Reports--Receives and reviews annual pupil enrollment reports (required of all LEAs) for evidence of racial imbalance in schools. Uses reports as basis for initiating desegregation activities.

j. Response to Requests for Assistance--Attitude is reported to be one of helpful cooperation. Responds to requests for assistance by LEAs, community groups, other state agencies, and federal agencies.

k. State Funds--State funds are provided for staff salaries. The state "Racial Balance" fund, which provided funds to LEAs having desegregation problems, was eliminated in 1972 by a budget reduction. These funds have not been restored.

7. Interactions

The Division of Intercultural Relations interacts with a broad spectrum of interests, including school boards, school administrators, teachers, parents, students, citizen groups, teachers' unions, legislative bodies at the state and local level, and the media.

8. Status of Desegregation

New York State has been promoting desegregation for almost two decades. There are only a half dozen persistent cases left, mostly in the large cities. OCR has initiated action against New York City, but there are no crisis situations in the sense of demonstrations and confrontations, and the atmosphere is relatively calm. Most of the desegregation has been accomplished under the Section 310 authority, by voluntary plans, and in response to several court cases. There are some problems of resegregation because of population shifts. An urban/suburban pupil transfer has been in operation for 12 years between several Monroe County LEAs and Rochester. ESAA funds and local funds have been utilized for the past few years for transportation.

9. Changes Desired in the State Role

a. The present state role is considered strong in terms of assigned authority; but there are conflicting political pressures, and current activities need to be strengthened in the enforcement of desegregation, including:
   (1) The identification of schools out of balance racially.
   (2) A firm requirement for local desegregation plans.
   (3) The imposition of state plans where necessary.
   (4) The provision of technical assistance to the LEAs by the SEA.
   (5) Firm enforcement of actions.

b. The state has to do more to avert resegregation. This is an oversight role.

c. The provision and close monitoring of state funds to be used for technical assistance and busing, where desirable.

d. More work needs to be done in curriculum revision and in staff training.

e. Establishment of an independent agency outside the educational system to push harder for desegregation. The educational agency is very sensitive to political forces.

10. Changes Desired in Federal-State Relationships

a. More interaction between the federal government and the states.

b. ESAA proposals should be administered through the SEAs. The SEAs should have some approval authority over them.

c. Technical assistance from federal agencies is not needed.

d. More federal funds (to be closely monitored) for training, curriculum revision, and community relations.

e. The provision of minimum federal standards and criteria for desegregation.

f. The establishment of resource centers to provide for exchange of information and dissemination of innovative approaches.

11. Innovative Approaches

In Monroe County, the Urban-Suburban Transfer Program is an attempt to provide quality education to minorities by the use of interdistrict transfers of students.

NORTH CAROLINA

1. Demographic Data (OCR Survey, Fall 1972)

   Public School Student Enrollment - 1.15 million.

   Minority Enrollment - 358,000 (30.9% of total; 29.5% Black).

   Note: Only five school districts in the state have a significent minority enrollment.

2. State Statutes

   There are no state statutes prohibiting segregation in schooling. Instead, the state relies on court orders and the Civil Rights Act.

3. Policy Statements/Resolutions

   The 1955 North Carolina General Assembly endorsed a statement called the Piersall Plan. This was a controversial resolution which called attention to the need for desegregation and permitted local option.

4. Desegregation Enforcement Authority

   The SEA does not have enforcement authority; the general approach is one of persuasion. However, there is a Human Relations Commission, which is part of the Governor's Office; this commission has investigative powers when complaints are raised.

5. Responsible Organization

   The Division of Human Relations was established in the SEA in 1969. It reports to the Assistant Superintendent for Equal Educational Opportunity, who reports directly to the State Commissioner. The staff has six professionals and one clerical, plus 60% of the time of the Assistant Superintendent EEO. Staff skills and training are primarily in education, with some additional training in psychology, sociology, and school administration. The division augments its own efforts by calling on the services of the GAC at East Carolina University.

6. Staff Activities

a. Leadership--Tries to set a moral tone for effective desegregation throughout the state. Tries to sensitize local school administrators to need for further integration.

b. Consultation and Meetings--Initiates and responds to requests for meetings with school administrators and community groups to discuss and resolve desegregation-related problems.

c. Training Programs, Seminars, Workshops--Conducts programs for administrators, community groups, teachers, students, parents, and interested professional organizations.

d. Minority Recruitment--Makes recommendations when requested.

e. Curriculum Review--Provides advice on request to LEAs and has prepared and disseminated its own material.

f. Construction Review--Division of Human Relations is not involved in this activity.

g. Planning Assistance--Works with local school districts to develop a plan of action, establish workshops, and move towards program implementation, evaluation, and followup.

h. ESAA Project Assistance--Provides unofficial advice and assistance to LEAs on request.

i. Pupil Enrollment Report--Receives and maintains annual pupil enrollment reports required of LEAs.

j. Response to Requests for Assistance--Attitude is reported to be one of helpful cooperation. Division staff tries to be flexible, accommodating, and available. Provides advice, guidance and technical assistance to teachers, students, administrators, and community groups.

k. State Funds--Except for the Assistant Superintendent, the Division of Human Relations staff is funded entirely by CRA IV funds. State funds are not available for desegregation purposes.

7. Interactions

The Division of Human Relations interacts with the school boards, administrators, teachers, students, community groups, parents, local legislative bodies, teacher organizations, and federal and state agencies.

8. Status of Desegregation

All dual school systems have been eliminated. There still are some districts with continuing isolation of minority students in one or more schools. The SEA takes no aggressive action to resolve these; it does, however, respond to complaints. There are some problems of resegregation due to population shifts and some white flight to parochial and private schools.

9. Changes Desired in the State Role

a. Adoption of a moral position that integrated schooling is desirable and necessary.
b. Development of a commitment to a policy that desegregation should pervade all school activities.
c. Assignment to the SEA of the responsibility and authority to initiate and enforce desegregation actions.
d. Provision of more funds for technical assistance.

10. Changes Desired in Federal-State Relationships

a. More even and consistent enforcement by OCR.
b. More federal funds for all kinds of desegregation activities.
c. Provision of technical assistance.
d. The revision of ESAA to permit the use of funds to help the states.
e. The establishment of federal criteria for integrated education and the development of federal guidelines to help the states in their role. There should be a stated national mandate for desegregated education, but it should be established in terms of desired results rather than processes to achieve it.

PENNSYLVANIA

1. Demographic Data (OCR Survey, Fall 1972)

Public School Student Enrollment - 2,305,900.

Minority Enrollment - 291,332 (12.6% of total; 11.7% Black, .8% Hispanic).

Note: According to Pennsylvania State data, in school year 1975-76 minority enrollment increased to 13.2% of a total enrollment of 2.246 million - 12.1% Black, 1.14% Hispanic. Only 38 of 505 LEAs have minority enrollments of over 500 students.

2. State Statutes

The Pennsylvania Human Relations Act enacted in October 1955 prohibited discrimination in a wide variety of activities, established the Pennsylvania Human Relations Commission (PHRC), and provided enforcement authority to the PHRC. The Pennsylvania Fair Educational Opportunity Act, enacted in July 1961, outlaws discrimination in school admissions. In September 1967, the Supreme Court of Pennsylvania ruled in the case of *Pennsylvania Human Relations Commission* v. *Chester School District* that public schools were included under the Human Relations Act and that affirmative action was required by local school officials in eliminating minority group isolation in public schools in the state.

3. Policy Statements/Resolutions

In May 1973 the State Board of Education adopted a desegregation policy reaffirming racial integration as a component of quality education.

4. Desegregation Enforcement Authority

Under the Human Relations Act of 1955, the PHRC can hold hearings, issue orders, and exact penalties--fines and imprisonment--through the courts. The PHRC and the State Department of Public Instruction work cooperatively. Also, the State Department of Public Instruction has approval authority over the Long Range

Development Plan for school building construction, which is required of every school district. Since state funds help support school construction and renovation, and since the plan must consider assignment of pupils and provide for equality of educational opportunity, this is another mechanism used to help enforce desegregation.

5. Responsible Organization

The Office of Equal Rights (OER), established in 1972, reports to the Commissioner for Basic Education, who reports to the Secretary for Education. (A predecessor office had been established in 1970.) In FY 76 the OER was funded with $129,367 of CRA IV funds. Salaries of the director and three other staff are paid by the state. The staff consists of eight professionals and two clericals. Staff training is mostly in education.

6. Staff Activities

   a. Leadership--Includes identification through annual reports of LEAs with excessive minority enrollments in one or more school buildings. ("Excessive" is defined as a greater than 30% variance from the proportion of black students in the school district.) Requests those LEAs to develop acceptable desegregation plans.

   b. Consultation and Meetings--Initiates and responds to requests for meetings with state agencies, community organizations, and individuals to discuss and help solve problems. Sponsors conferences on school issues relating to racism.

   c. Training Programs, Seminars, Workshops--Conducts statewide and regional orientation seminars for administrators; conducts regional seminars for teachers, librarians, and guidance counselors to improve skills in coping with bias.

   d. Minority Recruitment--Helps carry out programs for employment and promotion of minorities.

   e. Curriculum Review--Develops and identifies curriculum resources that are free from bias.

f. Construction Review--Reviews and approves Long Range Development Plan required of all LEAs.

g. Planning Assistance--Assists school districts in developing equal rights components in long-range plans. Assists LEAs in development and implementation of desegregation plans.

h. ESAA Project Assistance--On request, provides technical assistance to LEAs in the development and implementation of ESAA projects.

i. Pupil Enrollment Reports--Receives and reviews annual pupil enrollment reports (required of LEAs) for evidence of racial imbalance, and uses reports as basis to initiate desegregation actions (requests for desegregation plans).

j. Response to Requests for Assistance--Attitude is reported to be one of helpful cooperation. Much of activity is in response to requests by school districts and local school administrators for assistance in problem solving.

k. State Funds --None available for desegregation activities except staff salaries noted above.

7. Interactions

The Equal Rights Office interacts with local school boards, school administrators, state and local community groups, professional education associations, teachers, and other state agencies. It has little contact with state or local legislative bodies or the media.

8. Status of Desegregation

Out of 22 school districts identified as requiring desegregation plans, there are only 4 persistent cases left. Three are in various stages of litigation with the PHRC--Philadelphia, Pittsburgh, and Chester--and one is an old case that has not yet been resolved--Norristown. Resegregation was not mentioned as a problem.

9. Changes Desired in the State Role

Present state role is reported as satisfactory; no significant changes are desired.

10. Changes Desired in Federal-State Relationships

   a. Clear evidence of support from the federal level, including the Congress; at present, too many conflicting signals, too much court involvement.
   b. More even and consistent enforcement by OCR.
   c. Require each state to have a desegregation policy.
   d. Require each state to have a state plan for desegregation, a plan for positive action which should be more than an aggregation of local plans.
   e. More federal funds for desegregation, including financial incentives for effective actions.
   f. Revisions in ESAA to reflect current needs--recognition that much desegregation activity has now matured and needs have changed.
   g. Revisions in CRA IV--needs to be made more flexible and less restrictive about uses.

11. Innovative Approaches

Use of Long Range Development Plan to promote equality of educational opportunity.

WISCONSIN

1. Demographic Data (OCR Survey, Fall 1972)

Public School Student Enrollment - 833,000.

Minority Enrollment - 61,000 (6.5% of total; 4.6% Black, 1.1% Hispanic, .7% American Indian).

Note: According to Wisconsin State estimates, Milwaukee has 40% of the state minority population. Racine and Beloit also have significant minority concentrations.

2. State Statutes

Section 118.13 of a state antidiscrimination law enacted in 1949 prohibits racial discrimination by local school boards. In 1975 the law was amended and strengthened and gave the State Superintendent power to impose rules on local school boards. The amendment also provided incentives for both intra- and interdistrict voluntary transfer of pupils.

3. Policy Statements/Resolutions

There is no state board of education in Wisconsin. However, the State Superintendent has issued a bulletin called "Guidelines for Equal Educational Opportunity," which indicates a commitment to desegregation.

4. Desegregation Enforcement Authority

A ruling by the State Attorney General in November 1976 indicated that the State Superintendent does not have the authority to legally determine whether public schools are segregated or the authority to take enforceable action to desegregate those schools.

5. Responsible Organization

The Equal Educational Opportunity Office in the SEA reports to the Principal Deputy Superintendent. The unit is funded entirely by CRA IV funds, and a total of $227,000 was requested for the 77-78 school year. Staff includes 2 full-time professionals and 1½ clericals. There are also two temporary professionals and a half-time evaluation specialist. Some augmentation is available from other staff units of the State Education Agency, and a project task force approach is frequently used. Staff skills and training are primarily in education.

6. Staff Activities

a. Leadership--The approach is reported as one of suggestion and persuasion. It includes identification through annual reports of school districts with excessive minority enrollments in one or more school buildings and suggestions of actions to correct imbalance.

b. Consultations and Meetings--Responds primarily to requests from school administrators and community groups to discuss and help resolve desegregation-related problems.

c. Training Programs, Seminars, Workshops--Conducts programs for administrators, teachers, and counselors, or arranges for such training. The current focus is training in community relations and in needs assessment.

d. Minority Recruitment--Provides advice and assistance on request.

e. Curriculum Review--On request, reviews and provides advice on material developed at the LEA level. In addition, the State Superintendent has established two task forces with large citizen group representation to remove race and sex stereotyping from instructional practices and materials.

f. Construction Review--None.

g. Planning Assistance--On request, provides technical assistance to LEAs in the development of desegregation plans.

h. ESAA Project Assistance--Assists LEAs, on request, in developing proposals. Reviews all proposals prepared by LEAs and provides informal comments to the HEW regional office. Informally assists the regional office in monitoring projects in the state.

i. Pupil Enrollment Report--Receives and reviews annual pupil enrollment reports (required of LEAs) for evidence of racial imbalance in schools. Uses reports as basis for suggesting corrective action.

j. Response to Requests for Assistance--Attitude is reported to be one of helpful cooperation. Responds to requests by school administrators, community groups, other state agencies, and others for assistance.

k. State Funds--No state funds are provided for desegregation activities, except funds provided for the voluntary transfer plan.

7. Interactions

The EEO Office interacts primarily with local superintendents and with citizen groups. It also interacts somewhat with the GAC in Minneapolis, the State School Board Association, the Association of Urban Superintendents, the Civil Rights Centers in the university system and the media.

8. Status of Desegregation

The state has a small minority population, which is concentrated mainly in Milwaukee, Racine, and Beloit. Milwaukee is under a court order and is proceeding peacefully with desegregation plans; Racine has developed a voluntary plan. Only Beloit is considered to be a persistent case. There are a few small Indian population problems -- that is, cases where one or more school buildings have a majority of Indian students.

9. Changes Desired in the State Role

a. Resources and authority to initiate desegregation actions when necessary. However, this does not mean enforcement authority since the State Superintendent prefers a persuasive approach.

b. Preventive authority to head off growing minority problems--there is an increasing Hispanic population.

c. The establishment of minimal state standards for integrated education.

d. Approval authority for curricula to eliminate racial and sex stereotypes.

e. Approval authority for construction (with emphasis on site selection) to ensure desegregated schools.

10. Changes Desired in Federal-State Relationships

a. Greater federal financial support.

b. Approval authority over ESAA proposals.

c. Minimum standards and definitions for desegregated activities.

d. More positive and consistent enforcement actions by OCR.

e. Technical assistance in the form of increased staff resources from the federal government.

f. Establishment of regional resource centers to promote dissemination of successful approaches and to provide consultant services.

11. Innovative Approaches

The state law of 1975 (the Conta Act) provides financial incentives for voluntary inter- and intradistrict transfer of students. Basically, it permits students to transfer within districts and between districts on a voluntary basis to decrease racial imbalance. The state pays all transportation costs. The gaining district gets its usual per-pupil proportion of state aid plus some incentive funds. The losing district retains its proportion of state aid for the students lost. The incentive for students to volunteer for transfer is the establishment of specialty schools in the inner city and the academic reputation of the schools in the suburbs. In the first year of the plan, there were 10,250 intradistrict transfers in Milwaukee, 320 minority student transfers from the city to the suburbs, 32 transfers (white students) from the suburbs to the city, and 17 part-time transfers from the suburbs to the city. Similarly, 3,256 intradistrict transfers in Racine improved the racial balance there. Additional cost to the state was $5.5 million, and for the second year the cost is estimated to be be $7.5 million. There is a great deal of enthusiasm for the plan, but because the first-year program was designed and implemented in only 3 months, it was not considered to be a true test of what can be done.

CALIFORNIA

1. Demographic Data (OCR Survey, Fall 1972)

   Public School Student Enrollment - 4,441,300.

   Minority Enrollment - 1,295,652 (29.2% of total; 9.7% Black, 16.5% Hispanic, 2.5% Oriental).

2. State Statutes

   There is no current state statute on school desegregation. A previous state law against discrimination in housing, employment, schooling, etc., was repealed in 1972 by a referendum (Proposition 21).

3. Policy Statements/Resolutions

   There are no such statements currently in effect.

4. Desegregation Enforcement Authority

   There is no such authority assigned to the SEA.

5. Responsible Organization

   The Bureau of Intergroup Relations in the SEA has a Technical Assistance component, which is funded by CRA IV ($375,000 in FY 76.) The staff consists of five professionals and three clericals. Staff skills are mostly in education.

6. Principal Staff Activities

   Currently, the staff does not initiate desegregation activities. It does conduct workshops and training sessions on request. It follows up on complaints of discriminatory practices. It receives and maintains annual pupil enrollment reports required of LEAs, but does not initiate any action based on the reports. On request, the staff reviews curriculum materials for evidence of racial bias.

7. Interactions

   The Technical Assistance group interacts mostly with local administrators, teachers, and citizen groups on an advisory basis. Most of the direct training activities are provided by the GAC at the

Far West Laboratory.

8. Status of Desegregation

There are a number of court cases in progress. Los Angeles and San Diego are in the state courts, and San Francisco is in a federal court. Through the repeal of the previous state law, the state seems to have regressed in its position on desegregation.

9. Changes Desired in the State Role

a. A new state statute requiring desegregation, together with implementing regulations.

b. Enforcement powers to carry through any new state law.

c. More state funds.

10. Changes Desired in Federal-State Relationships

a. The development of standards and criteria for desegregation.

b. More federal funds, but contingent on meeting the standards and criteria.

c. The establishment of regional resource centers for technical assistance and dissemination of successful ideas.

d. Revision of ESAA so that it can be administered by the SEA similar to the manner in which ESEA Title I is administered.

CONNECTICUT

1. Demographic Data (OCR Survey, Fall 1972)

   Public School Student Enrollment - 673,800.

   Minority Enrollment - 85,638 (12.7% of total; 9% Black, 3.4% Hispanic).

2. State Statutes

   A 1969 Racial Imbalance Law requires LEAs to submit data on student population. Where imbalances are found, the LEA can be required to prepare a corrective plan. This must be approved by the State Board of Education. However, the law has no enforcement provisions. In 1969-70, regulations were developed, but they were not accepted by the legislature and the Governor. Development of a new set of regulations was started in 1976 and is still in process.

3. Policy Statements/Resolutions

   No such statements have been issued on desegregation.

4. Desegregation Enforcement Authority

   No such authority has been assigned to the SEA.

5. Responsible Organization

   The Equity Unit is part of the Bureau of School Services in the Division of Administrative Services. It was funded in FY 76 with $40,000 CRA IV funds. The staff consists of two professionals, one with an education background, the other with a community relations background. One member of the staff is funded by CRA IV, the other by state funds.

6. Principal Staff Activities

   Up to now, most of the desegregation activities have been dispersed throughout the SEA. The activities of the Equity Unit have been mostly coordinative. In effect, the desegregation program is a new program for the SEA, and its outlines are just beginning to emerge.

7. Interactions

Interactions of the unit have been mostly coordinative and in-house.

8. Status of Desegregation

There are a number of persistent cases left, including Hartford, Bridgeport, New Haven, Norwalk, Stamford, Waterbury, New London, New Britain, and Meridian. The growing number and isolation of Hispanics within the school system is an increasing problem, particularly in Hartford. There have been a number of court cases, and a number of local districts are under court order. In a current case, Bridgeport is suing the state board for inaction in achieving minority equity.

9. Changes Desired in the State Role

a. More state funds for desegregation.
b. Authority to identify minority needs.
c. Enforcement authority.
d. Revision and strengthening of the state statutes on racial imbalance.
e. Resources to provide technical assistance to LEAs. Currently, the SEA relies on the GAC for training programs.

10. Changes Desired in Federal-State Relationships

a. Federal regulations, or at least a consistent position on desegregation.
b. Distribution of funds should be related to compliance with these.
c. More technical assistance.
d. The establishment of resource centers for technical assistance and dissemination purposes.
e. Would prefer to see ESAA left as is.

DELAWARE

1. Demographic Data (OCR Survey, Fall 1972)
   Public School Student Enrollment - 133,500.
   Minority Enrollment - 29,573 (22.1% of total; 21.1% Black, .7% Hispanic).

2. State Statutes
   There are no current state statutes dealing with segregation. An old law that required four types of schools--for Whites, Coloreds, Indians, and Moors--was repealed about 3 years ago.

3. Policy Statements/Resolutions
   The only State Board of Education policy on desegregation deals with a requirement for affirmative action in the employment of school personnel.

4. Desegregation Enforcement Authority
   No such authority has been assigned to the SEA.

5. Responsible Organization
   The Human Relations Section in the SEA reports to the Assistant Superintendent for Instructional Services, who reports to the State Superintendent. The staff consists of two professionals and one clerical employee. Funding is by CRA IV and amounted to $100,000 in FY 76.

6. Principal Staff Activities
   a. Training Programs, Seminars, Workshops--Conducts programs mostly for administrators and teachers.
   b. Consultations and Meetings--Works with local school superintendents and meets with citizen groups on request to discuss and resolve desegregation-related problems.
   c. Curriculum Review--Provides advice on curriculum matters, including evaluation.
   d. Pupil Enrollment Reports--Reviews and maintains the annual pupil enrollment reports required of LEAs.

e. Planning Assistance--Assists LEAs in conducting needs assessment; does not get directly involved in desegregation planning.

f. Construction Review--The SEA is not involved in such review, although the State Board of Education is.

g. Crisis Situations--Responds to crises as they arise and works with local school administrators to help resolve them.

7. Interactions

The Human Relations Section interacts mostly with administrators and teachers, and with citizen groups on request.

8. Status of Desegregation

Wilmington and surrounding Newcastle County presents the only desegregation problem in Delaware. This case has been in the courts 11 times since 1971. The federal court has recently ruled that an interdistrict liability exists so that resolution requires an interdistrict remedy.

9. Changes Desired in the State Role

a. There is no felt need for more state power. Delaware officials claim the SEA has more power than it cares to use.

b. The SEA would like more state funding for desegregation activities.

c. The SEA needs to be more aggressive, although there is a strong tradition of local control.

10. Changes Desired in Federal-State Relationships

a. ESAA projects should be channeled through the SEA.

b. There is a need for planning funds in addition to implementation funds. More money is needed at the front end of the desegregation process.

c. Federal standards or criteria for desegregation should be established, but not in absolute terms. Standards should be related to federal funding, and choices should be permitted.

d. Establishment of regional resource centers, provided there is geographic proximity and the staff has some field experience.

FLORIDA

1. **Demographic Data** (OCR Survey, Fall 1972)

   Public School Student Enrollment - 1,494,700.

   Minority Enrollment - 429,679 (28.7% of total; 23.1% Black, 5.4% Hispanic).

2. **State Statutes**

   No state statutes on desegregation have been enacted.

3. **Policy Statements/Resolutions**

   No state policy statements on desegregation have been issued. The SEA relies entirely on federal statutes and court decisions.

4. **Desegregation Enforcement Authority**

   No such authority has been assigned to the SEA.

5. **Responsible Organization**

   The CRA IV Unit in the SEA is in the Human Resources Services Section of the Bureau of Support Services in the Public Schools Division. Although it is several steps down in the hierarchy, it has good access to top management. The staff consists of four professionals and two secretaries. Staff training is mostly in education. All staff are paid from CRA IV funds, which amounted to $160,000 in FY 76; $192,000 has been requested for FY 77.

6. **Principal Staff Activities**

   Consists primarily of workshops and seminars for in-service training of teachers and school administrators. The main theme is human relations.

7. **Interactions**

   The CRA IV Unit interacts mostly with teachers and school administrators at the local level. It also works closely with staff at the HEW regional office.

8. **Status of Desegregation**

   Considered satisfactory. Only two or three small school districts have minority populations of over 50%, but these do not represent any real problems. The Hispanic population is concentrated mostly in Dade County, but this situation is not considered a problem either. Desegregation activities in Florida are low key; there is a strong tradition of local leadership, and the SEA acts mostly in an assistance role. At present the SEA is helping LEAs with second-generation desegregation matters. The only real need seems to be continuation of staff training.

9. Changes Desired in the State Role
   a. More state funds.
   b. Increased staff resources.
   c. Does not agree with the concept that the GAC should do the bulk of the training. The SEA has more "clout" and feels it can do a better job.

10. Changes Desired in Federal-State Relationships
    a. Increased federal funding to enable the employment of 10 to 15 people.
    b. Establishment of regional resource centers for dissemination of successful approaches.

INDIANA

1. Demographic Data (OCR Survey, Fall 1972)
   Public School Student Enrollment - 1,206,900.
   Minority Enrollment - 132,333 (11% of total; 9.4% Black, 1.3% Hispanic).

2. State Statutes
   A Civil Rights Law enacted in 1949 and amended in 1965 and 1971 prohibits racial segregation in schools. Also, Indiana Public Law 218 makes provision for local school districts to institute action to overcome segregation. However, the SEA does not administer these laws.

3. Policy Statements/Resolutions
   The State Board of Education has issued a policy statement against segregated schooling. However, the statement has no enforcement provisions, and there are no other implementing rules or regulations.

4. Desegregation Enforcement Authority
   The SEA has not been assigned such authority.

5. Responsible Organization
   The Office for Equal Educational Opportunity of the SEA reports directly to the State Superintendent and is funded entirely by CRA IV. The staff consists of four professionals and two clericals. Staff training and experience is mostly in education and community activity.

6. Principal Staff Activities
   a. Training Programs, Seminars, Workshops--Conducts programs for local administrators, boards, and teachers.
   b. Consultations and Meetings--Responds to LEA requests for assistance to discuss and help resolve desegregation-related problems.
   c. Minority Recruitment--Provides advice on request.

d. Curriculum Review--Reviews curriculum material, on request, to ensure adequacy for bilingual/bicultural programs.

e. Construction Review--Provides advice on request.

f. Pupil Enrollment Reports--Reviews annual pupil enrollment reports required of LEAs, identifies problem areas, suggests corrective action. Can assist LEAs only on request.

g. Response to Requests for Assistance--Attitude is one of helpful cooperation. Most of the activities of the office are in response to requests.

h. ESAA Project Assistance--Provides technical assistance to LEAs in preparing ESAA proposals, and participates informally with the HEW regional office in reviewing and monitoring proposals.

i. Coordination--Coordinates activities of all SEA divisions with respect to desegregation matters.

7. Interactions

The EEO Office interacts primarily with local boards and school administrators. On request of LEAs, it also interacts with citizens and parents.

8. Status of Desegregation

There are some problem areas: Richmond, Hammond, Fort Wayne, and Indianapolis. Most school districts with more than a 5% minority enrollment seem to have at least one problem building. In the Indianapolis case, where the state was accused of illegal segregation in organizing its consolidated metropolitan government (Uni-Gov), the Supreme Court has sent the case back to a lower court for review of "intent."

9. Changes Desired in the State Role

a. More specific rules and regulations should be established by the SEA for use at the LEA level.

b. There should be greater cooperative effort between the SEA and the LEA. The state does not desire enforcement authority because such authority would not mesh with its technical assistance role. Enforcement authority would tend to place the SEA in an adversary position with the LEAs.

10. Changes Desired in Federal-State Relationships

a. Federal standards of desegregation to include definitions and criteria with allowable tolerances.

b. Increased federal funding for CRA IV to pay for release time for teacher training.

c. More vigorous and consistent enforcement action on the part of OCR and the Justice Department.

d. Better coordination between OE programs and OCR enforcement with respect to eligibility for grants.

e. A better partnership with the federal government, especially with regard to affirmative action employment of teachers.

IOWA

1. Demographic Data (OCR Survey, Fall 1972)

   Public School Student Enrollment - 632,600.

   Minority Enrollment - 15,484 (2.4% of total; 1.7% Black, .5% Hispanic).

2. State Statutes

   None on desegregation.

3. Policy Statements/Resolutions

   The State Board has issued guidelines on nondiscrimination in Iowa public schools. Defines segregation in terms of percentages of minority student populations. A school building with a minority population 20% over the minority student population in the local school district is considered not in compliance. The guidelines include procedures for compliance by the LEAs.

4. Desegregation Enforcement Authority

   The SEA has not been assigned enforcement authority, but it may report noncompliance situations to the HEW Office of Civil Rights. No such cases have been reported. However, in response to a local complaint OCR did find the Des Moines school district out of compliance with CRA VI.

5. Responsible Organization

   The Urban Education Section of the SEA reports to the Associate Superintendent for Instruction, who reports to the State Superintendent. It was funded in FY 76 by $131,000 CRA IV funds. The staff consists of 4 professionals and 1½ clerical. Staff training is primarily in education.

6. Principal Staff Activities

   a. Pupil Enrollment Reports--Reviews annual reports required of LEAs for evidence of racial imbalance; makes recommendations for action to the State Board; carries out State Board's decisions when made.

b. Planning Assistance--Assists LEAs in developing desegregation plans and facilitates implementation. Reviews plans and assists LEAs in preparing plans for pupil and teacher assignments.

c. Training Programs, Seminars, Workshops--Conducts programs for teachers and administrators.

d. Curriculum Review --Reviews instructional materials to correct racial stereotypes and bias.

e. Construction Review--Reviews construction plans in selected cases--primarily in eight LEAs that have problems of minority isolation.

f. State Funds--Some emergency funding is available.

g. ESAA Project Assistance--Assists LEAs, when requested, in ESAA proposal preparation; reviews and comments on proposals; collaborates with HEW regional office staff in monitoring projects.

7. Interactions

The Urban Education Section interacts mostly at the local level with school administrators, school boards, teachers, citizen groups, and legislative bodies.

8. Status of Desegregation

The SEA has made good progress over the last 8 years, but has experienced both apathy and backlash. There are 6 LEAs with persistent problems, out of 11 initially identified, but there is voluntary action taking place to resolve them. Only 3 are considered difficult problems. Isolation of the growing Hispanic student population is becoming a matter of concern.

9. Changes Desired in the State Role

a. Legislation requiring desegregation.

b. Enforcement authority.

c. Greater state commitment to desegregation, including more funding.

10. Changes Desired in Federal-State Relationship

a. Better partnership.

b. Establishment of a regional resource center to disseminate ideas and to provide training and technical assistance.

c. More federal funding.

KENTUCKY

1. Demographic Data (OCR Survey, Fall 1972)

   Public School Student Enrollment - 722,100.

   Minority Enrollment - 63,419 (8.8% of total; 8.7% Black).

2. State Statutes

   No state laws on desegregation.

3. Policy Statements/Resolutions

   In 1964 the State Board of Education issued a resolution to comply with Title VI of the Civil Rights Act. The resolution includes those actions the state would take to comply with the Act.

4. Desegregation Enforcement Authority

   The SEA has not been assigned such authority.

5. Responsible Organization

   The Division of Equal Educational Opportunity in the SEA was established in 1969. It is funded entirely by CRA IV funds. The annual grant under Title IV averages between $90,000 and $100,000 a year. Staff consists of three professionals and one clerical, and one part-time clerical. Staff training and experience are mostly in education.

6. Principal Staff Activities

   a. Training Programs, Seminars, Workshops--Conducts programs primarily for local administrators and teachers, on request.
   b. Consultations and Meetings--Assists school districts with regard to problems of minority isolation on request.
   c. Minority Recruitment--Provides advice on request.
   d. Curriculum Review--Provides some assistance on request.
   e. Planning Assistance--Provides technical assistance to LEAs in needs assessment and development of desegregation plans.
   f. Compensatory Education--Works with other SEA units on problems concerned with underachievement of minorities.

g. Pupil Enrollment Reports--Obtains data on pupil distributions by race from OCR reports. A survey by the State Human Rights Commission was conducted in the 1972-73 school year.

h. ESAA Project Assistance--Assists LEAs, on request, in developing proposals. Participates informally with the HEW regional office in review and monitoring of these projects.

7. Interactions

The EEO Division works primarily with local superintendents, boards, and community groups. It also interacts with other SEA divisions, with the State Teachers Association, and with the State Human Rights Commission in response to complaints about discrimination in schools.

8. Status of Desegregation

Desegregation is proceeding well. There is only one persistent case left: Jefferson County/Louisville, where two districts have been merged under court order. The biggest problems seem to be minority teacher recruitment, development of multicultural material to use in the classroom, and charges of excessive suspension and expulsion of minority students.

9. Changes Desired in the State Role

a. A state statute mandating desegregation in all schools.
b. Authority to review and monitor progress.
c. Enforcement powers.

10. Changes Desired in Federal-State Relationships

a. A better partnership.
b. Federal laws spelling out desegregation requirements.
c. More federal funds, especially for ESAA projects.
d. State approval of ESAA projects.
e. More consistent and stronger enforcement by OCR.

MICHIGAN

1. Demographic Data (OCR Survey, Fall 1972)

   Public School Student Enrollment - 2,173,200.

   Minority Enrollment - 347,988 (16% of total; 14% Black, 1.5% Hispanic).

2. State Statutes

   No state laws on desegregation.

3. Policy Statement/Resolutions

   In 1966 a joint policy statement was issued by the State Civil Rights Commission and the State Board of Education calling for an effort for integrated education. This led to the establishment of the Equal Educational Opportunity Office in the SEA and the first school population census. Currently, the State Board is developing new guidelines at the urging of the State Civil Rights Commission. In September 1976 the State Board established a desegregation advisory group to provide for broad citizen participation.

4. Desegregation Enforcement Authority

   The SEA has not been assigned such authority, although the state has been a defendant in several court cases (Kalamazoo 1970/71 and Detroit 1974 and 1976).

5. Responsible Organization

   The EEO Office in the SEA was originally established in 1966. It currently includes the CRA IV Unit, which has 5 professionals and 2-½ clericals. The EEO Office reports to the Assistant Superintendent for School and Community Affairs, who reports to the Commissioner. The Office is currently being reorganized to include two new units, one for Latino education and another for Indian education. Staff training and experience are primarily in education; one professional has a background in social research.

6. Principal Staff Activities

   a. Leadership--Develops SEA policies for desegregation.

   b. Consultations and Meetings--Conducts meetings at local levels to help community and school organizations resolve conflicts.

Conducts quarterly meetings with the HEW Regional Officer and with local Title IV and ESAA grantees.

c. Training Programs, Seminars, Workshops--Conducts programs for school administrators, community groups, teachers, and local school boards.

d. Minority Recruitment--Provides informal assistance as requested.

e. Curriculum Review--Reviews curricula for evidence of race and sex discrimination and assists LEAs to develop multiethnic curriculum materials.

f. Construction Review--None.

g. Planning assistance--Assists LEAs, on request, to develop and implement desegregation plans.

h. ESAA Project Assistance--Assists LEAs in developing ESAA and CRA IV proposals. Informally participates with the HEW regional office in review and monitoring of ESAA and Title IV grants.

i. Pupil Enrollment Reports--Receives and reviews annual student population reports required of LEA. However, does not initiate any action on the basis of the reports.

j. Response to Requests for Assistance--Attitude is reported as one of helpful cooperation. Most activity is in response to requests by LEAs.

k. State Funds--No state funds are provided for desegregation activities. However, the courts have ordered the state to provide $6 million in the Detroit case.

7. Interactions

The EEO Office interacts with local administrators, school boards, community groups, and teachers. It also works with the state legislature on request, and occasionally with local legislative bodies. Interacts with the State Civil Rights Commission, the Governor's Office, and the Department of Social Services, and has occasional contact with the media in problem areas.

8. Status of Desegregation

There are only four persistent cases: Detroit, Saginaw, Muskegan, and Benton Harbor. There are about 15 school districts with significant minority percentages, but they are mostly small districts and present minor problems.

9. Changes Desired in the State Role
   - a. Enactment of a state law against desegregation.
   - b. Increase in state funds to show a commitment to desegregation.
   - c. The authority to initiate and enforce desegregation actions.

10. Changes Desired in Federal/State Relationships
   - a. Better and more consistent enforcement.
   - b. Federal rules and regulations on compliance to provide better backing for the states.
   - c. Revision of Title IV funding to a state allocation basis.
   - d. Review of the role and status of the GAC to eliminate overlap.
   - e. Federal requirement for state desegregation plans.
   - f. Establishment of a regional resource center.
   - g. Increased federal funding for desegregation activities.
   - h. A national conference to exchange ideas.

MINNESOTA

1. Demographic Data (OCR Survey, Fall 1972)

   Public School Student Enrollment - 926,400.

   Minority Enrollment - 28,387 (3.1% of total; Black 1.2%, Hispanic .5%, American Indian 1.1%).

2. State Statutes

   None on desegregation.

3. Policy Statements/Resolutions

   In 1973 the State Board of Education issued a regulation, which has the effect of law, defining segregated education as 30% or more minority enrollment in a school and requiring such imbalance to be corrected.

4. Desegregation Enforcement Authority

   Pursuant to the regulation by the State Board of Education, the State Superintendent can ask local school districts for plans to correct segregated situations. Noncompliance can result in a reduction of state aid.

5. Responsible Organization

   The EEO Section in the SEA reports to the Assistant Commissioner for Planning and Development, who reports to the State Commissioner. Funding in FY 76 was $330,000 from CRA IV funds. There is a staff of three professionals and two clericals, all funded by CRA IV. Staff training is primarily in education.

6. Principal Staff Activities

   a. Consultations and Meetings--Responds to requests from LEAs to discuss and help resolve desegregation related problems.

   b. Training Programs, Seminars, Workshops--Conducts programs in response to requests from LEAs.

   c. Minority Recruitment--Provides advice and assistance on request.

   d. Curriculum Review--Reviews curriculum materials, on request, for evidence of racial stereotypes. Also on request, conducts training programs for LEAs on revising curriculum material.

e. Construction Review--Reviews and approves construction proposals on the basis of effective desegregation.

f. Planning Assistance--On request, assists in the development and implementation of desegregation plans.

g. ESAA Project Assistance--Informally assists the HEW regional office in the review and monitoring of ESAA proposals.

h. Pupil Enrollment Reports--Receives and reviews annual pupil enrollment reports (required of LEAs) for evidence of segregation in schools. When such evidence appears, requests the LEA to develop a plan to correct the situation.

i. Response to Requests for Assistance--Most activities are in response to requests from LEAs.

j. State Funds--No state funds are provided for desegregation activities as such. However, $4 million was provided for construction in 1976 to promote desegregation.

7. Interactions

The EEO Section interacts mainly with superintendents, school administrators, and teachers at the local level.

8. Status of Desegregation

Considered satisfactory. There are no major persistent cases, except for a few pockets of minority isolation in Minneapolis and St. Paul. In general, there has been strong State Board support and strong citizen support.

9. Changes Desired in the State Role

The present state role is considered satisfactory. More state resources however, would be helpful.

10. Changes Desired in Federal-State Relationships

a. More flexibility in CRA IV grants.

b. Stronger enforcement for noncompliance.

c. Federal definitions, standards, and criteria.

d. More federal funds. Now that the same grant has to cover sex discrimination as well as racial discrimination, the funds are spread too thinly.

e. Establishment of a resource center for desegregation, especially to disseminate curriculum material.

f. Resolution of the confusion in the role between the SEAs and the GACs.

OHIO

1. Demographic Data (OCR Survey, Fall 1972)
Public School Student Enrollment - 2,404,700.
Minority Enrollment - 319,141 (13.3% of total; 12.2% Black, .8% Hispanic).

2. State Statutes
There is no specific state law on desegregation. However, there is some question about implied state authority in the state constitution to end discrimination in the schools. This point is being tested in the courts. In the Cleveland case, the lower courts said that the State Board did have the authority and was equally guilty with the local school district in not ending segregation. The Board questions that finding, and the case is now under appeal.

3. Policy Statements/Resolutions
The State board has issued a policy statement on administration of school activities in an nonsegregated manner.

4. Desegregation Enforcement Authority
Neither the state law nor the Board policy provides for enforcement authority other than persuasion. The plaintiffs in the Cleveland court case, however, take issue with the State Board and feel it should provide vigorous enforcement.

5. Responsible Organization
The Office of Equal Education Opportunity in the SEA is in the Division of Urban Education, which reports directly to the Commissioner. Staff consists of 4 professionals and 2½ clericals. Staff training is mostly in education. The staff is funded by both CRA IV funds and state funds; FY 76 CRA IV funds were $140,000.

6. Principal Staff Activities
   a. Consultation and Meetings--Responds to requests, especially in crisis situations. Interacts mostly with local school administrators and with state agencies.

b. Training Programs, Seminars, Workshops--Conducts programs for administrators, principals, and teachers.

c. Minority Recruitment--This has not been a problem since the teacher surplus began.

d. Curriculum Review--Assists in the preparation of multicultural guides and, on request, reviews curriculum materials for evidence of racial bias.

e. Planning Assistance--Using a task force approach, provides technical assistance to LEAs in the development of desegregation plans. Also assists in the implementation of these plans.

f. ESAA Project Assistance--Assists LEAs, on request, in the preparation of ESAA grant proposals. Informally works with the HEW regional office in the review and monitoring of ESAA projects.

g. Pupil Enrollment Reports--Receives, reviews, and maintains annual pupil enrollment reports required of LEAs. Uses reports as basis for suggesting desegregation activities.

h. Response to Requests for Assistance--Provides technical and consultative assistance as requested.

i. State Funds--State funds are available in emergency situations.

j. Other Assistance--Monitors other CRA IV programs and provides other services and programs pursuant to approved OCR plans.

7. Interactions

The EEO Office works mainly with superintendents, assistant superintendents, and program directors. It often interacts with the State Board of Education and with state legislators on legislative matters. There is some interaction with citizen groups and much contact with the media, especially in response to questions about court cases.

8. Status of Desegregation

Almost every major city in Ohio has a court case pending, including Cincinnati, Cleveland, Dayton, Columbus, and Youngstown. The SEA is a defendant accused of inaction in all these cases. Ohio has many of the elements for an active state program, but a committed EEO staff has been handicapped in its efforts by political resistance at both state and local levels. The Dayton case, due to be settled by September 1977, will likely set the pattern for the state role.

9. Changes Desired in the State Role
   a. Clarification of powers of the State Board under the state constitution, and a follow-up education program to ensure that all districts understand what those powers are.
   b. More state funding and staff resources, depending on the authority assigned to the State Board.
   c. Control over ESAA grants for better coordination of needs.

10. Changes Desired in Federal-State Relationships
    a. A better partnership with the federal government to ensure that the state needs are really known, and more visually active and consistent enforcement by OCR.
    b. More federal funds.
    c. Reexamination of the uses and purposes of Titles IV, VI, and VII of the Civil Rights Act.
    d. Reconsideration of sex discrimination funding. At present it is siphoning off Title IV funds.
    e. Technical assistance, especially by personnel with field experience.

SOUTH CAROLINA

1. Demographic Data (OCR Survey, Fall 1972)

Public School Student Enrollment - 629,900.

Minority Enrollment - 262,958 (41.7% of total; 41.5% Black).

2. State Statutes

No state statutes on desegregation.

3. Policy Statements/Resolutions

No written policy statements or resolutions on desegregation.

4. Desegregation Enforcement Authority

No such authority assigned to the SEA.

5. Responsible Organization

The Office of Technical Assistance in the SEA reports to the Deputy State Superintendent, who reports to the State Superintendent. Funding in FY 76 was $59,000 from CRA IV funds. The staff consists of three professionals and one clerical; most of the staff skills are in education.

6. Principal Staff Activities

   a. Training Programs, Seminars, Workshops--Conducts programs for administrators and teachers.
   b. Minority Recruitment--Provides advice and assistance on request.
   c. Construction Review--Advises on location of new schools to ensure proper racial balance.
   d. Pupil Enrollment Reports--Reviews annual reports on distribution of students required of LEAs. This review, however, does not trigger any activity, except on request.
   e. Response to Requests for Assistance--Coordinates the resources of the entire SEA, on request, for assistance in desegregation matters.
   f. Consultations and Meetings--Provides assistance on request. For example, when Black students walked out of school in one county, the office provided technical assistance in mediating

the dispute. Another example is that of staff-conducted meetings for school administrators on ability grouping and testing.

7. Interactions

The Office of Technical Assistance interacts mostly with local superintendents, boards, principals, and teachers. The office also works with local citizen groups on request.

8. Status of Desegregation

The SEA considers the current status of desegregation as satisfactory. It reports no unresolved problems.

9. Changes Desired in the State Role

The SEA prefers to maintain the status quo; it does not feel there are any problems. However, more funds for training purposes would be desirable. It does not desire desegregation enforcement power; preferring to take a helpful stance rather than that of the enforcer.

10. Changes Desired in Federal-State Relationship

a. More federal funds would be helpful.
b. The SEA feels uncertain about a regional resource center.
c. The SEA does not believe that a federal policy is needed. It feels that the current Civil Rights Act and court cases are sufficient.
d. The SEA would like to review and approve ESAA proposals.

TEXAS

1. Demographic Data (OCR Survey, Fall 1972)

   Public School Student Enrollment - 2,611,200.

   Minority Enrollment - 1,015,812 (38.9% of total; 16% Black, 22.6% Hispanic).

2. State Statutes

   There are no state statutes that deal specifically with segregation. However, a 1972 state law requiring an accreditation check has implications for student and teacher desegregation.

3. Policy Statements/Resolutions

   There are no specific state policy statements dealing with segregation.

4. Desegregation Enforcement Authority

   The SEA has not been assigned such authority nor does it seek it. Desegregation is considered mostly a federal rather than a state problem.

5. Responsible Organization

   The Division of Technical Assistance for School Desegregation in the SEA reports to the Associate Commissioner for Field Support Services, who reports to the Assistant Deputy Commissioner, who reports to the Commissioner. The Division manages the CRA IV program and was funded in FY 76 with $204,000 from CRA IV funds. The staff consists of 12 professionals and 2 clericals. Seven of the staff are paid out of federal funds, the rest out of state funds. Skills and training are primarily in education. The staff is racially mixed and has a strong commitment to desegregation.

8. Principal Staff Activities

   a. Pupil Enrollment Reports--Reviews annual reports required of LEAs and identifies school buildings with a racial imbalance (those with 66% minority population); 200 districts have been identified.

b. Accreditation Assistance--Provides assistance to the state accreditation teams.

c. Bus Routing--Transportation is state funded, and the Division staff reviews bus routings.

d. Pupil Assignments--Reviews and approves transfers of individual students from one district to another. Changes of less than 1% of the local student population can be handled at the district level.

e. Training Programs--Staff training programs are conducted by the GAC, with SEA cooperation.

f. ESAA Project Assistance--On request, provides technical assistance to LEAs in preparing ESAA grant proposal. Writes comments, on request, to the HEW regional office on LEA proposals. Informally helps the regional office monitor ESAA projects.

7. Interactions

The Division's staff interacts primarily with school boards and school superintendents. There is little interaction with teachers or citizens.

8. Status of Desegregation

Except for a few persistent cases, most of the desegregation cases have been resolved. Most of the activity now is monitoring. Some modification of school district boundaries is still occurring.

9. Changes Desired in the State Role

No significant changes are desired. In Texas desegregation is considered mostly a federal problem. Court orders are considered to provide sufficient authority. Most of the big districts are under some sort of court order, including El Paso, Austin, Dallas, Houston, Fort Worth, and Corpus Christi. Some increase in state funding would be considered helpful.

10. Changes Desired in Federal-State Relationships

a. Joint investigation of complaints with OCR.

b. The SEA should assume complete responsibility for monitoring bilingual programs. OCR has current responsibility, and this should be reassigned.

c. More federal funds for ESAA-type programs.

d. Establishment of regional resource centers for dissemination of ideas.

e. Does not desire to be in the ESAA approval chain. The SEA feels it is involved enough already with planning and monitoring activities.

Appendix B

ANALYSIS OF COURT CASES

Appendix B

ANALYSIS OF COURT CASES

Appendix B provides an analysis of each of 9 court cases in which the SEA was involved in the fault and/or the remedy. Eight of the cases were heard in federal courts, and the ninth, Los Angeles, was heard in a state court. These analyses were prepared by Jane V. Buckle, Attorney, Washington, D.C.

Detroit, Michigan - *Milliken* v. *Bradley*
Louisville, Kentucky - Jefferson County/Louisville
Indianapolis, Indiana - *U.S.* v. *Board of School Commissioners of the City of Indianapolis*
Cleveland, Ohio - *Reed* v. *Rhodes*
Coney Island, New York - *Hart* v. *Community School Board of Brooklyn, New York*
Buffalo, New York - *Arthur* v. *Nyquist*
Wilmington, Delaware - *Evans* v. *Buchanan*
St. Louis County, Missouri - *U.S.* v. *State of Missouri*
Los Angeles, California - *Jackson* v. *Pasadena City School District* and *Crawford* v. *Board of Education of the City of Los Angeles*

ANALYSIS OF RECENT COURT DECISIONS INDICATING STATE RESPONSIBILITY FOR REMEDYING RACIAL SEGREGATION IN PUBLIC SCHOOLS

INTRODUCTION

Although *Brown* v. *Board of Education*, 347 U.S. 483 (1954) dealt with a school system which was segregated by law, it has since been made clear in a series of cases that the U.S. Constitution will permit no school system to exist which is segregated intentionally through "state action" of any kind. *Brown* decreed an end to "separate but equal" school facilities in 1954, and local boards were given the duty of remedying existing statutory *de jure* segregation.

The Fourteenth Amendment's Equal Protection Clause speaks directly to the state, and there must necessarily be a type of "state action"--i.e., sufficient involvement of the state, either directly or through its agencies by act or omission--which brings the courts' protection of individual rights into play. Private discrimination, no matter how reprehensible, is not actionable under the Fourteenth Ammendment. The nature of "state action" at a level involving a constitutional violation is necessarily decided on a case-by-case basis and has been the subject of numerous interpretations. "Intent" is a critical factor in determining whether an action or omission by a state official is of the level remediable under the Fourteenth Ammendment. Whether or not intent, or purpose, can be derived from "effect" of an act is the subject of continuing debate. U.S. District Courts and U.S. Courts of Appeal (in review), to which judicial responsibility at the local level has been committed, have frequently expressed differing interpretations of Supreme Court pronouncements on the subject. Recent cases have indicated that the Supreme Court in the near future will be less likely to infer malign intent from discriminatory effect [Austin and Indianapolis case remands in light of *Washington* v. *Davis*, 426 U.S. 229 (1976), discussed below].

Several landmark cases were decided pursuant to Brown, all of which involved formerly statutorily segregated school systems. In Green v. County School Board, 391 U.S. 430 (1968), the Supreme Court made it clear that it would not tolerate "freedom of choice" plans which had not hitherto succeeded in effecting segregation. In Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1971), the Supreme Court spoke strongly of the requirement of affirmative action to remedy historical de jure segregation, including the busing of students, if necessary: "The objective today remains to eliminate from the public schools all vestiges of state-imposed segregation." Swann, at 15. Also, still in context of a formerly statutorily segregated system, in Wright v. Council of City of Emporia, 407 U.S. 451 (1972), a city which had been part of a county school system previously found in violation of the Constitution was not permitted to establish a separate school system where the effect of so doing would have been to impede the process of dismantling the segregated school system. The Supreme Court said: "Thus, we have focused upon the effect--not the purpose or motivation--of a school board's action in determining whether it is a permissible method of dismantling a dual system. The existence of a permissible purpose cannot sustain an action that has an impermissible effect." Wright, at 462.

Then came the first of the "northern and western" school desegregation cases to reach the Supreme Court, Keyes v. School District No. 1, 413 U.S. 189 (1973). In Denver, no statutorily mandated dual segregated school system had ever existed. Segregative acts had been proved in some areas of Denver, and petitioners sought to expand their suit to secure desegregation in the remaining Denver schools. The Supreme Court held that a finding of intentionally segregative school board actions in a meaningful portion of a school system creates a presumption that other segregated schooling within the system is not accidental and that it is both fair and reasonable to require that the school authorities bear the burden of showing that their actions as to other segregated schools were not also motivated by segregative intent. "The essential element of de jure segregation is a current condition of segregation resulting from intentional state action...the differentiating factor between de jure segregation and so-called de facto segregation...is purpose or intent to segregate." (See Keyes, 205-209.)

Such have been the cases to which courts look today for guidance. In few of the cases since Brown has there been a disputed situation of actual racial segregation--in other words, there is generally agreement by all parties and the courts that segregation exists, and records are rife with concrete examples. The disputes arise as to whether the segregation has been brought about or maintained by intentional state action--or unintentional state action if the effect is discriminatory--either directly by state agencies involved or through their local instrumentalities, particularly school boards and housing authorities.

Once the type of state action necessary for a finding of violation of the Fourteenth Amendment's Equal Protection provisions is found, the question becomes one of deciding exactly where the "blame" lies and who should participate in the remedy. Courts have said many things. A discussion follows of some of the more recent cases from the standpoint of state participation in court-ordered remedies, some in greater detail than others when it is felt that they might be more instructive. The issue of inter- or cross-district remedies involving the transfer of students was settled by a 1974 Supreme Court decision in Milliken v. Bradley, 418 U.S. 717, in a manner not favoring such remedies (discussed below), except apparently in certain specific instances involving merged districts, violations by both adjoining districts, or discriminatory state legislation. Federal district courts, faced with primary responsibility and almost impossible tasks of implementing workable plans which establish unitary, nonracial systems of public education as required by Brown, have nevertheless devised varying remedies short of interdistrict student exchanges which are being reviewed by the higher courts. District courts in some cases have easily found state responsibility in a vicarious sense, depending on the amount of power over state education retained by the state or committed to local districts by state constitutions and statutes. Local autonomy has seemingly been one key to a refusal to order mergers and cross-district remedies on an involuntary basis [see Bradley v. School Board of the City of Richmond, affirmed by an equally divided court, 412 U.S. 92 (1973)], although most state legislatures have retained in the state the right to so order (see February 1977, Report of the United States Commission on Civil Rights, Statement on Metropolitan School Desegregation, at 43-44). Administrative workability and physical and economic practicality are considered by the courts in their decisions. But paramount has been the enunciation by the Supreme Court in Milliken of the equitable principle that one need not be forced to participate in a remedy to undo harm not of one's own conscious doing. How the 1974 Milliken decision argues for remedies short of those calling for interdistrict relief has been an open question. The Supreme Court has granted certiorari to review the remedy devised by the District Court after the earlier Milliken reversal in Detroit, which calls for financial participation by the state. Whether or not justification for eliciting support from all of Michigan's taxpayers can be made before the Supreme Court will be a major question to be decided before the end of the Court's present term.

CASE ANALYSES

Detroit, Michigan

In Milliken v. Bradley, 418 U.S. 717 (1974), the Supreme Court framed an equitable limitation on appropriate remedies for school segregation in its notable reversal of the Sixth Circuit Court of Appeals, which had upheld the lower Federal District Court in its findings that "...both the State of Michigan and the Detroit Board of Education have committed acts which have been causal factors in the segregated condition of the public schools of the City of Detroit." 338 F. Supp. 582 (1971), at 592. State defendants in the case were the Governor, the Attorney General, the State Board of Education, and the State Superintendent of Public Instruction. The lower court had ordered an interdistrict remedy involving transportation of large numbers of students.

Specifically, the District Court found that as a result of the enactment of a Michigan statute, Act 48 of the 1970 Legislature,* the state was in the position of unconstitutionally interfering with the execution and operation of a voluntary plan of partial high school desegregation which had been adopted by the Detroit Board of Education. 338 F. Supp., at 584. The original purpose of the Act was to decentralize the huge Detroit system by dividing it into eight regions; however, the Act sought to prescribe for each school in the eight districts criteria of "free choice" (open enrollment) and "neighborhood schools" (nearest school priority acceptance), which had as their purpose and effect the maintenance of segregation. 338 F. Supp., at 589. In addition, the District Court found that the state had refused until that time to provide authorization or funds for the transportation of pupils within Detroit, regardless of their poverty status or distance from the school to which they were assigned, while providing in many neighboring, mostly white, suburban districts the full range of state-supported transportation. This and other financial limitations, such as those on bonding and the working of the state aid formula whereby suburban districts were able to spend more per pupil with less tax effort, were felt to have created and perpetuated systematic educational inequalities. The court also concluded that the local and state boards' activities in the area of school construction and furnishing of facilities was generally in keeping with "discriminatory practices which advanced or perpetuated racial segregation in these schools." 338 F. Supp., at 589.

In its conclusions of law, the Court set forth the degree of supervision which the State of Michigan exercises over the local school districts: "(12) That a state's form of government may delegate the daily administration of public schools to officials with less than statewide jurisdiction does not dispel the obligation of those who have broader control to use the authority they have consistently with the Constitution." And, "(13) Leadership and general supervision over all public education is vested in the State Board of Education, Art. VIII S3, Mich, Const. of 1963." The State Board and Superintendent had been given the duty to do all things necessary to promote the welfare of the public schools and public educational instruction and to provide proper educational facilities for the youth of the state. 338 F. Supp., at 594.

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*Michigan Public Acts of 1970 (Mich. Comp. Laws 338,171 et seq.). In enacting the statute, the State was exercising what Michigan courts have held to be "plenary power" to use a statutory scheme, to create, alter, reorganize, or even dissolve a school district despite any desire of the school district, its board, or the inhabitants thereof.

The Court of Appeals for the Sixth Circuit, in its review of the lower court's findings [484 F.2d 215 (1973)], cited numerous sections of Michigan state laws and constitutional provisions, establishing that ultimate power over education in the state is vested in the State Board of Education and Superintendent of Public Instruction and concluded that the record had established that the State had committed acts that constituted de jure segregation and that the State "controls the instrumentalities whose action is necessary to remedy the harmful effects of state acts.... In the instant case the only feasible desegregation plan involves the crossing of the boundary lines between Detroit school district and adjacent or nearby school districts for the limited purpose of providing an effective desegregation plan. The power to disregard such artificial barriers is all the more clear where, as here, the state has been guilty of discrimination which had the effect of creating and maintaining racial segregation along school district lines." 484- F.2d, at 238-248.

The Supreme Court, however, in its reversal, held that no remedy involving any school district other than Detroit would be within the equitable power of the District Court without evidence that the state or suburban district or districts had themselves committed acts of de jure segregation or that the acts had a significant segregative effect across district lines. The essential holding in the 1974 Milliken case is found in the following:

> The controlling principle consistently expounded in our holdings is that the scope of the remedy is determined by the nature and extent of the constitutional

> violation. Swann, at 16. Before the boundaries of separate and autonomous school districts may be set aside by consolidating the separate units for remedial purposes or by imposing a cross-district remedy, it must first be shown that there has been a constitutional violation within one district that produces a significant segregative effect in another district. Specifically, it must be shown that racially discriminatory acts of the state or local school districts, or of a single school district, have been a substantial cause of interdistrict segregation. Thus, an interdistrict remedy might be in order where the racially discriminatory acts of one or more school districts caused racial segregation in an adjacent district, or where district lines have been deliberately drawn on the basis of race. [418 U.S., at 744, 745.]

The Supreme Court found that in Detroit, acts of de jure segregation were (with one exception held to be de minimis) confined to the limits of the Detroit School District. Even though the State of Michigan as well as the Detroit school authorities had been found responsible by the lower courts for de jure segregation, a cross-district remedy such as prescribed by the District Court was found to be improper in light of the fact that Michigan school districts were meaningfully separate and autonomous by statute (although the District Court had found ultimate power to have been in the State), that district boundaries were not established for the purpose of creating, maintaining, or perpetuating segregation of races, and that unitary school systems have long been required by law. Chief Justice Burger wrote at one point for the 5-4 majority:

> Where the schools of only one District have been affected, there is no constitutional power in the courts to decree relief balancing the racial composition of that district's schools with those of surrounding districts. 418 U.S., at 749.

In concurrence, and by way of explaining the decision, Justice Stewart wrote:

> In reversing the decision of the Court of Appeals this Court is in no way turning its back on the proscription of state-imposed segregation first voiced in Brown...or on the delineation of remedial powers and duties most recently expressed in Swann....In Swann the Court

> addressed itself to the range of equitable remedies available to the courts to effectuate the desegregation mandated by Brown and its progeny, noting that the task in choosing appropriate relief is "to correct...the condition that offends the Constitution," and that "the nature of the violation determines the scope of the remedy... (Swann at 1276)" The disposition of this case thus falls squarely under these principles. The only "condition that offends the Constitution" found by the District Court in this case is the existence of officially supported segregation in and among public schools in Detroit itself. There were no findings that the differing racial composition between schools in the city and in the outlying suburbs was caused by official activity of any sort. It follows that the decision to include in the desegregation plan pupils from school districts outside Detroit was not predicated upon any constitutional violation involving those school districts. By approving a remedy that would reach beyond the limits of the city of Detroit to correct a constitutional violation found to have occurred solely within that city the Court of Appeals thus went beyond the governing equitable principles established in this Court's decisions. [418 U.S., at 757.]

Where did the reversal in Milliken leave the District Court? Faced with disapproval of the interdistrict remedy, it had been told by the Supreme Court to come forth with "prompt formulation of a decree directed to eliminating the segregation found to exist in Detroit city schools, a remedy which has been delayed since 1970." 418 U.S., at 753. Plans again were ordered to be submitted by the state and local board officials; finally, on November 4, 1975, by opinion in 411 F. Supp. 493, a plan was accepted which had been drafted by the Detroit Board of Education requiring certain "educational components" to be paid for in part (50%) by the State. The plan required reassignment of 27,524 students, of whom 21,853 would require bus transportation. Purchase of 250 buses was eventually ordered by the District Court and, upon affirmation and modification by the Court of Appeals, the state was ordered to pay 75% of the cost, in recognition of the devastated financial condition of the local Detroit Board. The Court of Appeals on August 4, 1976, remanded the case to the District Court for failure to include three inner-city districts in its plan, but supported the District Court in its inclusion of the educational components in the plan which was adopted, while at the same time realizing that no meaningful desegregation had yet been accomplished. "Notwithstanding the reassignments effected by the District Court, the percentage of black students in each of the eight [regions] remains substantially unchanged under the adopted plan." 540 F.2d 229, at 237. At this time, the Court of Appeals expressed regret that it was unable to provide further guidelines and referred to the fact that the Detroit plaintiffs were attempting to justify a metropolitan (inter-district) remedy.

The so-called "educational components" encompassed in the Court of Appeals' remand were implemented by the District Court in a judgment which included the following:

> The defendant Detroit Board of Education and the state defendants shall, on or before the start of the September, 1976, school term, institute comprehensive programs for: (a) Reading and communication skills; (b) In-service training; (c) Testing; and (d) Counselling and career guidance...to remedy effects of past segregation, to assure a successful desegregation effort and to minimize the possibility of resegregation. 402 F.Supp. 1096 (1975), at 1118.

Most interesting is the Court of Appeals' interpretation of the Supreme Court's decision:

> We do not read the opinion of the Supreme Court as disagreeing with or disturbing in any way the findings of unlawful segregation with respect to the Detroit school system. To the contrary...the Supreme Court remanded the case with a mandate for "prompt formulation of a decree directed to eliminating the segregation found to exist in Detroit city schools, a remedy which has been delayed since 1970." 418 U.S., at 753. 540 F.2d 229, at 233.

The Court of Appeals also stated the following principle:

> Since Michigan State Officers and agencies were guilty of acts which contributed substantially to the unlawful de jure segregation that exists in Detroit, the state has an obligation not only to eliminate the unlawful segregation but also to insure that there is no discrimination in the quality of education. 540 F.2d, at 245.

Appeals were made by the State defendants, contending that the District Court had exceeded its authority; the Detroit Board argued that the state should participate to a larger degree. Certiorari was granted by the Supreme Court on November 15, 1976, and oral argument was heard on March 22, 1977 (No. 76-447). A decision is likely to be reached on the State's obligations before the end of the Court's present term.

In Detroit, it should be pointed out, there was no attempt at consolidation, or merger, of districts which might have enabled the District Court to achieve an interdistrict remedy (as was the case in Louisville see below); nor did the state legislation under attack have any immediate effect beyond the borders of the city of Detroit (compare with Wilmington, below). The Detroit system was never a statutorily segregated one, which in earlier cases, prior to Keyes, possibly led the Court to accept more readily a finding of de jure segregation from evidence of discriminatory effects.

Two state acts serve as possible pegs on which to hang a finding of "constitutional violation" justifying state participation in the remedy. First was Act 48, which blocks voluntary desegregation of Detroit. Second, and perhaps most appropriate for justifying state financial participation in the remedy, was the state's discriminatory expenditure policy.

Louisville, Kentucky

In another case from the Sixth Circuit, the Supreme Court recently denied review of a Court of Appeals decision which had the effect of approving metropolitan areawide student transfer plans in Louisville. 521 F.2d 578 (1976); cert. denied, No. 76-710, January 25 1977, 45 L.W. 3503.

On July 30, 1975, the U.S. District Court for the Western District of Kentucky at Louisville ordered a school desegregation plan which entailed transportation of students to schools outside their regular districts. Responsibility for implementation was given to the Board of Education and Superintendent of Schools for Jefferson County. The District Court had earlier been instructed by the Court of Appeals to implement a plan eliminating "all vestiges of state-imposed segregation," adding that "state-created school district lines shall impose no barrier." 489 F.2d 925. This direction by the Court of Appeals was remanded by the Supreme Court for reconsideration in light of Milliken, 418 U.S. 918, but later reinstated by the Court of Appeals with modifications. 510 F.2d 1358 (1974). Certiorari was denied on this action by the Supreme Court. 421 U.S. 931 (1975).

Although no direct state participation was required by the remedy imposed by the District Court in July 1975, this case is distinguished by the fact that the Kentucky State Board of Education on February 28, 1975, ordered the merger of the Jefferson County and Louisville Boards of Education, effective April 1, 1975, which apparently enabled the courts to approve a remedy that did not necessitate crossing lines between districts to eliminate segregation. 521 F.2d 578, at 581. In Louisville, the lower court had found segregative acts by local officials which had impact outside the Louisville district prior to the merger.

Indianapolis, Indiana

On the same day that it declined to review the Sixth Circuit Louisville case, the Supreme Court vacated a judgment of the Seventh Circuit Court of Appeals which had affirmed a District Court remedy involving interdistrict transportation of students to bring about desegregation within the Indianapolis public school system. U.S. v. Board of School Commissioners of the City of Indianapolis, 541 F.2d 1211 (1976); Judgment vacated, 76-212: 45 L.W. 3500 (January 25, 1977). The proceedings were remanded for further consideration in light of Washington v. Davis, 426 U.S. 229 (1976), a Supreme Court decision concerning the proof of purpose to establish unconstitutional racial discrimination.* The issue before the courts in the Indianapolis case, as in Detroit, concerned the appropriate exercise of federal equity jurisdiction.

As the latest of a series of successive desegregation orders in a suit brought originally in 1968 against the Board of School Commissioners of Indianapolis, the District Court (S.D. Ind.) on August 1, 1975, found two violations, which it considered to be interdistrict, of the Equal Protection Clause of the Fourteenth Ammendment. The first was the failure of the state to extend the boundaries of the Indianapolis Public School District (IPS) when the municipal government of Indianapolis and other governmental units in Marion County, Indiana, were replaced by a consolidated countywide government known as Uni-Gov. The second violation found by the District Court was the confinement of all public housing projects (in which 98% of the residents are black) to areas within the boundaries of the city of Indianapolis. [See 541 F.2d 1211, at 1212 (1976).]

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*Washington v. Davis involved the validity of a qualifying test for District of Columbia police officers. The Supreme Court rejected the proposition that a law or other official act, without regard to whether it reflects a racially discriminatory purpose, is unconstitutional solely because it has a racially disproportionate impact. Mr. Justice White wrote: "Disproportionate impact is not irrelevant, but it is not the sole touchstone of an invidious racial discrimination forbidden by the Constitution. Standing alone, it does not trigger the rule that racial classifications are to be subjected to the strictest scrutiny and are justifiable only by the weightiest of conclusions." 48 L.Ed, at 609.

Also, in Austin Independent School District v. U.S., No. 76-200, (Dec. 6, 1976) 50 L.Ed 2d 603, the Supreme Court vacated a judgment of the Fifth Circuit Court of Appeals and remanded for reconsideration in light of Washington v. Davis. The Court of Appeals had found a condition of segregation resulting from local school board action, its ultimate decision against the board being based in part on a finding that the natural and foreseeable consequence of its actions was ethnic segregation. Extensive cross-town busing of students had been ordered. 532 F.2d 380.

On the basis of these violations, the District Court determined that a limited interdistrict remedy would be appropriate and ordered a transfer of black IPS students in grades 1-9 to suburban school districts within surrounding Marion County. The District Court also enjoined the Housing Authority of the City of Indianapolis from renovating a housing project in the inner city for other than elderly persons. The District Court had earlier found that the State of Indiana, its officials and agencies, by various acts and omissions in addition to the two most critical violations mentioned above, had promoted segregation and inhibited desegregation within IPS, so that the state, which was ultimately charged under Indiana law with the operation of its public schools,* had a continuing affirmative duty to desegregate the Indianapolis school system. 368 F.Supp. 1191 (1973). The District Court's 1973 findings as to violations were viewed by the Court to be similar to acts by state officials in Detroit: gerrymandering school attendance zones, making boundary changes which promoted segregation, providing optional zones in "changing" areas, assigning teachers and staff so as to mirror the complexion of the student body, and site selection promoting separation of the races. These acts were approved by the Indiana State Board of Education and the Superintendent of Public Instruction, which bodies did "nothing to provide leadership and guidance toward equal educational opportunity." 368 F. Supp., at 1203. The District Court felt that, looking to the Sixth Circuit before the Supreme Court reversal in Milliken, it was justified in ordering an interdistrict remedy.

The Court of Appeals, in its post-Milliken affirmation, failed to find in the record any compelling state interest that would have justified the failure to include IPS in the Uni-Gov legislation. Uni-Gov was on its face a neutral piece of legislation with its main purpose to efficiently restructure civil government within Marion County. Its impact on racial balance of the Indianapolis public schools, however, seemed to constitute the type of redrawing of boundaries the Court said in *Milliken* would violate equal protection. The Court of Appeals said:

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*Under the Indiana Constitution, the public schools as a whole are a "state institution, under the direct control and supervision of the state." Const. Ind. 1816, art. 9, §1, 2; 1851, art. 8, §1.

> Because in 1969, 95 percent of the blacks in Marion County lived in the inner city and segregation in its schools was under attack in federal court, it is clear to us that Uni-Gov and its companion 1969 legislation were "a substantial cause of inter-district segregation," and "contributed to the separation of the races by ... redrawing school district lines ...." (Citations were made to *Milliken*, at 3132, Stewart, J., concurring, as indicative of the cases in which the Supreme Court might find inter-district relief to be justified. It should be pointed out that Stewart's opinion was not concurred in by the majority and is therefore not the law of the land.)

The Court of Appeals continued:

> The General Assembly, under both federal law ... and Indiana law ... had an obligation to alleviate the segregated condition in IPS. The District Court correctly observed, "When the General Assembly expressly eliminated the schools from consideration under Uni-Gov, it signaled its lack of concern with the race problem and thus inhibited desegregation with(in) IPS." [See 541 F. 2d at 1219]

In summary, the Court of Appeals held that the essential findings for an interdistrict remedy lacking in *Milliken* were supplied by the record in this case--that the segregative acts of suburban governmental units made it politically expedient that Uni-Gov not include the schools. Here again, however, we have an educational system which was never statutorily segregated, thus adding somewhat to the burden of ascertaining segregative intent from legislation neutral on its face, and a reluctance on the part of the Supreme Court to permit an interdistrict remedy without reconsideration in light of its later holding in *Washington* v. *Davis*.

Cleveland, Ohio

In another recent action within the Sixth Circuit, the U.S. District Court, (N.D. Ohio, E.D.) held various state officials as well as local school board defendants responsible for segregative acts and their results in Cleveland. *Reed* v. *Rhodes*, 422 F. Supp. 708 (1976)

The plaintiffs were students in the Cleveland public school system, their parents, and the N.A.A.C.P. The question to the District Court was the extent to which public officials and agencies were responsible for creating and/or maintaining the segregated situation in Cleveland public schools--a system which had never been statutorily segregated. The Court recognized that "intent" was critical to assessing acts by state officials and to determining whether the Fourteenth Amendment had been violated.

The District Court examined voluminous records and exhaustively explored activities at local and state levels to determine the nature of the liability of the various parties. The plaintiffs' proofs focused on specific pupil assignment decisions by local school officials over a 35-year period. These included, among others, boundary changes, creation of optional zones, use of rented facilities for classrooms, additions to existing schools of both permanent and temporary classrooms and other facilities, faculty assignments, construction of new schools, and closing of old schools. In analyzing individual events, the Court stated, "... no easy formula emerged for judging when a specific incident had a segregatory effect." 422 F. Supp. 708.

In view of the fact that each set of defendants, i.e., the local school officials, the state school officials, the Governor, and the Attorney General, was alleged to have caused or maintained the segregated nature of the Cleveland school system, the Court carefully examined the nature of the authority vested in each set of defendants. The obligation of each would determine whether the official had deprived the plaintiffs of their constitutional rights. The Court found the Cleveland School Board to have participated in acts which were undeniably and foreseeably discriminatory in their effect, as well as acts which the Court attributed to deliberate, conscious intent on the part of the Board to segregate public school pupils on the basis of race. The State Board was also found to have violated the plaintiffs' rights to equal protection; however, paramount in the Court's determination of responsibility on the part of the State Board were characterizations of its inaction--its resemblance to the proverbial "ostrich with its head in the sand." Specifically, the State Board was alleged to have failed to enforce minimum standards which were set for public schools throughout the state, permitting demonstrably inferior conditions in Cleveland's predominantly black schools, including the assignment of most black and inexperienced teachers to predominantly black schools. The District Court's findings as to both the Cleveland Board and the State Board were made after the Supreme Court's ruling in Washington v. Davis; however, the Court had not yet remanded the Indianapolis case.

Of special interest to this study is the Court's finding that the plaintiffs' allegation of a chain of liability attributing responsibility to the Governor was too attenuated. The Court held that he could not be held vicariously liable for everything the state does while he is in office, in the absence of probative evidence of his involvement. The plaintiffs had also attempted to charge the Attorney General with failure to implement a 1956 opinion that the state could withhold funds from districts not in conformance with federal and Ohio law aimed at preventing racial segregation in the public schools. The Court held this to be a State Board of Education function and did not find the Attorney General liable for the inaction which followed.

As for remedy, the plaintiffs and defendant school boards were ordered to formulate and submit proposed plans for desegregation, and the local and state boards were enjoined from committing further acts of discrimination. The Court noted that:

> The plaintiffs have argued for the involvement of suburban school districts in any remedy which the court might order. Such action could only be taken by this court within what it determines to be the parameters of Milliken v. Bradley 418 U.S. 717 (1974). Whether such involvement will be necessary must be determined as the efficacy of proposed remedies is considered. In the meantime, and in this regard, there is nothing to prevent the State board from finally commencing the carrying out of its responsibilities. [422 F. Supp. 708, at 795. (fn. 21)]

In many cases in which states are found liable, the state is required to submit a desegregation plan. In 1953, Ohio adopted a system by which the responsibility for elementary and secondary education ultimately rested with an elected State Board of Education, Ohio Const., art. VI, §4. The Board hires the State Superintendent, who administers the various state programs. (See section on the State Board of Education, 422 F. Supp.

708.) Similar statutory provisions in other states impel the courts to bring in state level defendants, at least at the planning state in desegregation orders.

Coney Island (Brooklyn), New York

Hart v. *Community School Board of Brooklyn, N.Y.*, 383 F. Supp. 699 and 769 E.D.N.Y. (1974); aff'd, 512 F.2d 37 (2d C 1975), was the first school desegregation case in the City of New York to come to a federal court. The original suit was a class action on behalf of students attending Mark Twain Junior High School in Coney Island, N.Y. Defendants in the original suit were the local school board and Chancellor of the Board of Education of New York City. In *Hart*, there was no question of direct state involvement beyond the sense in which all local, state, and federal agencies have been considered as defendants by the court as it sought to choose among remedies.* The question was basically local, involving the extent to which school officials had allowed and perpetuated segregation in one school. The system itself had always been "desegregated." No discussion was particularly made of direct state involvement through state education officials. District Court Judge Weinstein found that the local board and Chancellor were liable for conducting a segregated school in violation of the Constitution and that a plan for desegregation would be required. 383 F. Supp. 699. The District Court did not find the federal and state third-party defendants liable, but retained jurisdiction over them for purposes of relief. Judge Weinstein found racially imbalanced housing to have exacerbated the segregational impact in local schools and stated: "In remedying the condition of unconstitutional racial segregation at Mark Twain, this Court has the power and duty to require not only the school board to act, but other agencies of the state as well, including the New York City Housing Authority." 383 F. Supp., at 748. "The 14th Amendment, by its very terms, speaks to the state," he continued. "Consequently, in remedying the racial segregation for which the state is liable, this Court may require the state, through its agencies and political subdivisions, to participate and cooperate in remedial action."

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*The defendant local and city officials were allowed to involve federal and state officials; these parties were later dropped from the case.

On July 26, 1974, the District Court in a memorandum opinion and order (383 F. Supp. 769) provided that a plan which had been submitted by the local board be put into effect, along with other remedies which combined to make the order one of the most sweeping ever issued in a school desegregation case. The order involved federal, state, and local housing authorities, recreation officials, transportation authorities, and the police. Judge Weinstein also ordered the third-party defendants to submit monthly reports of progress and problems which had arisen, even though action against them had been "mooted" in his earlier opinion.

In its review, which came after the Supreme Court's decision in Milliken, the Court of Appeals for the Second Circuit affirmed the finding of de jure segregation and found that the approval of the board's plan was well within the powers of the District Court; however, when it turned to the position of the third-party defendants, the Court of Appeals pointed out that continuing jurisdiction by the District Court over these bodies was too "vast a series of continuing enterprises" and recommended to the District Court that the action against the third-party defendants be dismissed even though not requested by them and that the District Court look for help from them, instead, on a "voluntary basis." 512 F. 2d 37, at 56. Thus, an element of practicality of remedy entered the picture.

More important, the Court of Appeals affirmed the standard used by the District Court in determining that local officials had violated the Constitution. The Court of Appeals said: "Unless the Supreme Court speaks to the contrary, we believe that a finding of de jure segregation may be based on actions taken, coupled with omissions made, by governmental authorities which have the natural and foreseeable consequence of causing educational segregation." 512 F.2d at 50. Earlier the Court had written in its opinion: "In northern cities without a statutory history of racial school segregation, there is still a valid distinction, in a constitutional sense, between '_de facto_ segregation,' a condition created by factors apart from the conscious activity of government, and '_de jure_ segregation,' caused or maintained by state action." 512 F.2d, at 38. The Court agreed with the lower court that approval of a districting plan with full understanding that the result would be a student body almost totally black was not a case of "mere inaction ... allowing a racially imbalanced school to continue." 512 F.2d at 48.

This case brings out some limits to liability for segregative acts which courts will attribute to parties. To some extent the limits are for administrative convenience, but to a greater extent they arise from the necessity of finding direct causal relationship between specific acts and their effects. Liability does not flow automatically from being in a position of responsibility in an area in which discrimination has taken place.

Buffalo, New York

Another case arising within the Second Circuit, _Arthur_ v. _Nyquist_, 415 F. Supp. 904 (1976), was a class action by black and white parents of children attending Buffalo public schools, the Citizens Council for Human Relations, Inc., and the N.A.A.C.P. The defendants were the Commissioner of Education in New York State, the Board of Regents of the State of New York and its individual members, and various local school and city officials. The question to the Court in this case was whether or not any or all of the defendants had acted in such a manner as to segregate the Buffalo public school system. (The question of remedy was not before the court at the time.)

The District Court decision of April 30, 1976, cited above, contained a subdivision entitled "The State Integration Mandate," explaining that the Buffalo School Board is subject to state control through the Board of Regents and the State Commissioner of Education as to matters of educational policy, and that it was totally dependent on the Buffalo City Council and the state for its financial requirements. 415 F. Supp., at 948.

The Court described the dilatory tactics of both the Buffalo School Board and the City Council, providing numerous examples of stalling, delay, confusion, succumbing to local pressures, and failures in cooperation, but then stated:

> But however much the Board of Education or the City Council procrastinated or wavered, an equal share of the blame for the segregation in the BPSS [Buffalo Public School System] must be attributed to the state defendants. The Board of Regents and the Commissioner of Education have the central responsibility for education in New York State. They have the tools necessary to effectuate the integration policy they devised and to enforce the law they were clearly aware of. The state defendants shirked their responsibility under the laws of New York State and the Constitution, and in so doing encouraged the city defendants to continue their own segregative action. They, like the city defendants, must be held accountable. [415 F. Supp., at 949]

In New York State full power over education is vested in the State [N.Y. Const. Art. XI, 1 (1931)] and specifically in the Department of Education. The powers granted to the Commissioner of Education are extensive, but the court found the actions of the State Regents and Commissioner during the past decades to have been sadly lacking in integrative impact. While not quarreling with all state decisions to defer to local authority, J. Curtin went on to say that:

> When effective local action is not forthcoming, and no reasonable person could expect that it will be forthcoming, and repeated attempts at cajoling, pleading and coercing the local authorities into action have failed, there comes a time when those individuals with both the power and responsibility to act must assert themselves. Deference to local authorities is not an absolute and binding requirement. It is a policy decision with a defined and limited rationale, i.e. that the local authorities have a greater degree of knowledge and insight into the complexities of local concerns. However, when the local authorities refuse to accept the responsibility that is theirs, state

> authorities have no recourse but to act. Neither the Commissioner nor the Regents did so in the case of the Buffalo public schools ..." [415 F. Supp., at 951]

The Court was convinced that neither the Commissioner nor the Regents had taken "reasonable steps" to alleviate segregation in the Buffalo public school system, and that the Commissioners' actions over the past 10 years "amounted to a mountain of paperwork with few substantive results." Major allegations of discrimination included segregation of staff, siting and construction of schools so as to promote segregation, manipulation of school district lines, optional attendance zones and transfers for segregative reasons, failure to implement meaningful integration plans, failure to hire significant numbers of minority group teachers, failure to promote significant numbers of minority individuals to supervisory positions, failures in funding of a high school which would have alleviated segregation, and student assignments which incorporated residential patterns.

All parties agreed that the Buffalo school system exhibited severe racial imbalance, but defendants denied that the segregated condition was intentionally caused by them. The Court stated that in deciding the question of intent, the Court is not required to find guilt or innocence, prejudice or evenhandedness, "... to prove their case, plaintiffs are not required to show that racist motives prompted the defendants, nor even that defendants wanted the schools to be segregated, although proof of either of these would be sufficient to show the required intent. It is enough ... as the Second Circuit explained in Hart, 383 F. Supp. 699 (1974), aff'd 512 f2d 37 (1975), to show that the probable and foreseeable result of the defendants' acts was segregation." 415 F. Supp., at 913.

The Court examined the contribution of housing and residential segregation to racial isolation and imbalance in the schools--a fact not disputed by any of the defendants but relied on by them (and by many other defendants in school desegregation cases) as a defense to the effect that residential living patterns were alleged to be the cause of racial imbalance in the schools. Judge Curtin commented that the extensive housing evidence presented in the case,* was not irrelevant, but state officials could not use the actions of others to excuse their own failure to act because, "in the final analysis, the state defendants are responsible for education in New York." 415 F. Supp., at 969.

The Court then ordered city and state defendants to prepare plans to desegregate the Buffalo public school system which would encompass staff segregation as well as student segregation, acknowledging the Supreme Court's guideline: "The burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work now. Green v. County School Board, 391 U.S. at 439 (1968)."

Acknowledging the limitations set by the Supreme Court in 1974 in Milliken, the Court indicated that there appeared to be no basis for the ordering of a metropolitan areawide remedy, but noted: "Milliken does not prevent the state from itself devising and implementing a metro response to what is essentially a metropolitan problem. Nor does Milliken prevent a plan that would encompass the metropolitan areas on a voluntary basis, and the state defendants shall consider this in their plan." 415 F. Supp. 969-970.

Wilmington, Delaware

In a case at present again before the Third Circuit Court of Appeals, Evans v. Buchanan, 393 F. Supp. 428 (1975); aff'd, 423 U.S. 963 (1975); 416 F. Supp. 328 (1976); appeal dismissed, November 29, 1976, 45 L.W. 3399; presently on appeal before the Third Circuit, No. 76-2103-76-2108, the District Court for the District of Delaware had found that statutory de jure segregation of Wilmington's schools had never been erased. The three-judge District Court found that the segregation which existed resulted from a combination of factors, including demographic and housing patterns initiated and supported by state action and the redrawing of district lines during a period of consolidation and reorganization under the "Educational Advancement Act of 1968." The Act, a Delaware school reorganization statute, explicitly excluded the Wilmington district from a general reorganization of Delaware school districts. Although the District Court had concluded that the provisions excluding the Wilmington district from school reorganization were not racially discriminatory in purpose, it went on to say, "Statutes that do not explicitly deal with race but have a pronounced racial effect ... can also establish suspect racial classifications." 393 F. Supp., at 441. The District Court therefore held that the Act had a significant racial impact on the policies of the State Board of Education. In effect, the stature prevented a predominantly black school district from being reorganized with a predominantly white suburban district while other districts in the state were able to consolidate. The District Court, having found a violation in a formerly de jure statutorily segregated state which included interdistrict effects, ruled that under the guidelines laid down in Milliken, the Court could consider both inter- and intradistrict remedies for the constitutional violation. 393 F. Supp. 428. This decision was affirmed per curiam by the U.S. Supreme Court on November 17, 1975. The parties, including the State Board of Education and the Wilmington School Board, were directed to develop plans to remedy the violations. The plans were to be submitted through the State Board of Education, which was to select the proposals it deemed best. Throughout the course of the litigation, the Court continually held that the primary burden of the duty to desegregate rests with the State Board. 393 F. Supp. at 430. In the original case, 379 F. Supp. 1218, the State Board of Education had been found to be a proper party defendant in view of the Court's finding that the Delaware Board had historically had broad responsibility in maintaining the statewide public school system and that it must take primary responsibility in the dismantling of the former dual system of education. The Court went on to point out that responsibility for education in Delaware has been assumed at the state level to an extent far greater than in any other state with similar desegregational problems, in large part because of geographic area and population. The state provides 70% of funds required to operate local districts. (Federal sources provide 7%, and 23% come from local taxes. See 379 F. Supp. 1218.)

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*Extensive evidence had shown that the residential segregation in Buffalo was caused, in substantial part, by the federal government, the Buffalo Housing Authority, the private real estate industry, and the Common Council of the city, through various actions which took place over many years.

At the next stage in the litigation the Court had to choose among remedies that had been submitted. 416 F. Supp. 328 (1976). In essence, the Court rejected all the submitted remedies and fashioned its own, calling for a reorganization establishing school districts larger than those permitted heretofore by state law, i.e., of approximately 80,000 students instead of 12,000. The Court said that whenever possible it tried to comply with state law, but considered this a matter of "federal remedy for violation of federal rights." The Court ordered the State Board of Education to appoint a special board consisting of representatives from the existing New Castle County and Wilmington boards to make assignments, subject to State Board approval, "which body bears the final responsibility for compliance with the Court's order." 416 F. Supp., at 365.

Appeal of this case was dismissed by the Supreme Court on November 29, 1976 (on procedural grounds), 45 L.W. 3399. The question now before the Third Circuit is whether the relief ordered by the District Court was a proper exercise of its remedial powers in light of the extent of the constitutional violation shown. The matter will come before the Supreme Court again.

In Wilmington, the Court was willing to find state responsibility for public education.

St. Louis County, Missouri

This school desegregation action [U.S. v. State of Missouri, 515 F. 2d 1365 (1975)] was commenced in 1971 by the United States pursuant to Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c-6) and the

Fourteenth Amendment's Equal Protection Clause. The complaint charged that the state and local defendants had created and maintained one district in St. Louis County as an all-black district, thus denying equal opportunity and equal protection to students therein. The District Court had found specifically that the Missouri Department of Education recognized differences which continued between the all-black Kinloch district and the surrounding two predominantly white districts long after the formerly statutorily segregated system had been dismantled. The Court also found lower per-pupil expenditures and teacher salaries, inferior facilities, and limited curricula. The State of Missouri also maintained a system of classification whereby it recognized differences in public schools. By classifying black Kinloch differently, the State Department of Education demonstrated its awareness of the inequity. The Court further found that on numerous occasions reorganization plans which included the Kinloch district had been rejected because of a fear of voter dissatisfaction. The District Court concluded that "...the cumulative effect of the actions of the state and local defendants has been the creation, operation, support, and general supervision by the State of Missouri of a small school district which is unconstitutionally segregated and whose students are denied an equal educational opportunity." 363 F. Supp. 739 (1973) at 749.

As a result of its findings, the District Court ordered the consolidation of the all-black Kinloch district with the surrounding two districts. The Court also set a uniform 1975 school tax throughout the new district. 388 F. Supp. 1058 (1975).

On appeal, apparently none of the parties disputed the finding of racial discrimination and the inferiority of Kinloch's facilities and programs; appeals were based on disagreement among the concerned districts as to the manner in which the merger was to take place as well as to the necessity and legality of merger. The Court of Appeals for the Eighth Circuit, on May 14, 1975, affirmed the District Court's findings of responsibility on the part of surrounding school districts, as well as state and county officials, and also affirmed the District Court's authority to order interdistrict remedies in accordance with guidelines in Milliken. 515 F.2d 1365, at 1370. The Court of Appeals also affirmed the Court's power to consolidate and order the levying of essential taxes; however, the Court of Appeals directed that deference be given to a plan calling for a slightly lower tax level submitted in good faith by state and local officials. 515 F. 2d, at 1373. Implementation of the plan was to be accomplished under Missouri statutes governing annexation of school districts. V.A.M.S. 162.441.

Los Angeles, California

State courts have been active in California in school desegregation cases. In 1963, in a seminal decision, Jackson v. Pasadena City School District, 382 P.2d 878, the California Supreme Court announced: "School boards in California bear a constitutional obligation to take reasonably foreseeable steps to alleviate school segregation, whether *de facto* or *de jure*. The Court's function is to ascertain if a school board has initiated a course of action to alleviate effects of segregation in its schools and has made reasonable progress towards that goal; if the Court so finds it should not intervene; if it does not so find, it should intervene to protect the constitutional rights of our children."

Many cases followed this decision. See the discussion in Crawford v. Board of Education of the City of Los Angeles, 551 P.2d 28, for example, where Judge Tobriner said for the California Supreme Court in bank: "As these decisions demonstrate, since Jackson this Court has consistently reiterated the principle that the constitutional obligations of school boards in California include an obligation to undertake reasonably feasible steps to alleviate school segregation, regardless of its cause." While not going to a remedy involving a state official, the Court in Crawford admonished the local board to make further plans and indicated a willingness to take stronger measures if action was not forthcoming.

This discussion is included to indicate an example of one state in which the state court has assumed an activist posture in the field of school desegregation.

CONCLUDING COMMENTS

The cases examined are neither isolated nor exceptional. However, after examination no generalizations or "trends" emerge. The law of the land is interpreted by the Supreme Court. The various federal judicial circuits differ in their interpretation, where the Supreme Court has not explicitly spoken. In many instances, the Supreme Court's holdings are difficult to grasp clearly and leave questions, particularly when pinpointing "intent."

Nevertheless, three basic factors seem to be used in analyzing where the courts stand on state responsibility for school desegregation. The first two factors flow naturally from Swann, later reiterated in Milliken:

(1) The type or "nature" of the violation, in descending order of "seriousness":

  (a) Specific acts and omissions with intent to block desegregation.
  (b) Specific state acts discriminating against a heavily minority district.
  (c) Benign acts, particularly legislative, having discriminatory effect.
  (d) Discriminatory acts or omissions by officials under color of state law, without specific intent to segregate, having segregative effect.
  (e) Vicarious liability simply by being an arm of the state having responsibility for educational matters derived from state constitution or statute.

(2) The type or "scope" of the remedy and, to a lesser extent, its practicality. The variations in remedy discussed in the foregoing recent cases, in more or less descending order, beginning with the most difficult to pursue through the courts, are as follows:

  (a) Required interdistrict.
  (b) Merger to implement transfers without crossing district lines.
  (c) State financial participation.
  (d) State participation in submission and implementation of plans.
  (e) Orders to officials to refrain from segregative acts.

(3) The type of system must be taken into account inasmuch as in many cases it seemed to have a bearing on whether or not state liability was triggered:

(a) Whether formerly statutorily segregated.
(b) Constitutional and statutory power given to state officials for public education.
(c) Constitutional and statutory authority to draw school district boundaries.
(d) Degree of state responsibility for school finances.